Amended date: Town Meeting May 2, 2026

ZONING BY-LAWS

TOWN OF LEVERETT, MASSACHUSETTS

ARTICLE I. PURPOSE.

These regulations are enacted to promote the general welfare of the Town of Leverett, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to increase the amenities of the town, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by the provisions of the Zoning Act, M.G.L.A. ch. 40A, as amended, and by Article 89 of the Amendments to the Constitution.

ARTICLE II. USE AND DIMENSIONAL REGULATIONS.

2100. Districts.

2110. Establishment. For the purposes of this By-Law, the Town of Leverett is hereby divided into the following districts:

Residential/Village	RV
Residence/Rural	RR
Rural Outlying Residential ……	RO
General Business	GB
Commercial .....…	COM

Seven additional "overlay" districts are also hereby created: an Aquifer Protection District (pursuant to Section 4300), a Flood Hazard District (pursuant to Section 4400), a Stream and Lake Protection District (pursuant to Section 4500), a Scenic Road Protection District (pursuant to Section 4600), a Rattlesnake Gutter Overlay District (pursuant to Section 4700), an Upper Elevation Site Plan Review Overlay District (pursuant to Section 4960), and a Wireless Telecommunications Overlay District (pursuant to Section 4900).

The boundaries of these districts are defined and set forth on the map entitled, "Zoning Map, Leverett, Mass.," dated March 11, 2008, as may be subsequently amended by vote of Town Meeting. This map is on file with the Town Clerk. This map and all explanatory matter therein are hereby made a part of this Zoning By-Law.

2120. Boundary Definition. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines at water body shoreline or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or at an angle to such lines shall be construed to be actually

parallel, perpendicular, or at an angle thereto. When not located in any other way, boundaries shall be determined by scale from the map. The Rural Outlying (RO) Residential District shall commence 500 feet from the edge of the Right of Way of the road layout.

2130. Existing Lots. Where a district boundary line divides any lot existing at the time such line is adopted, the use regulations for any district in which the lot has frontage on a street may be extended not more than forty (40) feet into the other district.

2200. Use Regulations.

2210. General. No structure shall be erected or used or land used except as set forth in Section 2230, "Use Regulation Schedule", or in Section 2240, "Accessory Buildings and Uses", unless exempted by Section 2240, or by statute.

Symbols employed below shall mean the following:

Y - A permitted use.
N - An excluded or prohibited use.
SP - A use authorized under special permit as provided under Section 5300.
SPR - Site Plan Review required as provided under Section 3900.

2220. Applicability. When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern, if equally specific, the more restrictive shall govern.

2230. Use Regulation Schedule.

2231. **Principal Uses.** (For Accessory uses, see Section 2240.)	**Districts**				
	RV	**RR**	**RO**	**GB**	**CO**
Residential Uses (see Section 4880)					
Dwelling Single Family, shall include manufactured homes	Y	Y	Y	Y	Y
Two-family dwelling	Y	Y	Y	Y	Y
Multi-family dwelling (3 or more units)	N	N	N	N	N
Flexible Development	N	N	SPR	N	N
Non-family accommodations (boarding house, etc.) with 2 or 3 rooms for let	SP	SP	SP	SP	SP
Bed & Breakfast with 5 rooms or less to let	SP	SP	SP	SP	SP
Recreational occupancy of camping vehicle for not more than 14 consecutive days in any one month period	Y	Y	Y	Y	Y

	Districts				
	RV	**RR**	**RO**	**GB**	**CO**
2232. **Extensive Uses.**					
Agriculture, silviculture, horticulture, floriculture or viticulture exempt from zoning regulations pursuant to G.L. c. 40A, s. 3	Y	Y	Y	Y	Y
Other Agricultural Uses including Marijuana Cultivation	N	SP	SP	SP	SP
Private commercial campgrounds	N	SP	SP	N	N
Private commercial outdoor recreation area	SP	SP	SP	SP	SP
Commercial earth removal	N	N	N	SP	SP
Conservation area, public park	Y	Y	Y	Y	Y
2233. **Community Service Uses.**					
Public utility	SP	SP	SP	SP	SP
Cemeteries	SP	SP	SP	SP	SP
Schools - Exempted from zoning regulation by G.L. ch. 40A, s.3	Y	Y	Y	Y	Y
Other educational uses,	SP	SP	SP	SP	SP
Church, other religious use	Y	Y	Y	Y	Y
Other non-commercial community service use	SP	SP	SP	SP	SP
2234. **Business/Industrial Uses.**					
Home Occupations (see Section 2241)	S	SP	SP	SP	SP
Small Home Occupations (see Section 2241.5)	Y	Y	Y	Y	Y
Hotel or motel	N	N	N	SP	SP
Inns	SP	SP	SP	SP	SP
Restaurant	SP	SP	SP	SP	SP
Private commercial indoor recreation facility or club	N	N	N	SP	SP
Junkyard, salvage yard	N	N	N	N	N
Sawmill (see definition)	N	N	N	SP	SP
Gasoline service stations	N	N	N	SP	SP
Automobile sales and repair	N	N	N	SP	SP
Sales, service, or storage of trucks, tractors, farm or construction equipment	N	N	N	SP	SP

	Districts				
	RV	**RR**	**RO**	**GB**	**CO**
Business or professional offices	N	N	N	SP	SP
Conversion of a Non-Residential Historic Structure (100 Years or older) to one or more of the following residential and/or commercial uses: Apartments, Retail Stores, Professional Offices, Restaurants, Microbrewery, Artisan Studios and/or Sawmill within the footprint of the Historic Structure	SP	SP	SP	SP	SP
Bank	N	N	N	Y	Y
Retail grocery or general store up to 3,000 square feet of enclosed floor space	SP	N	N	Y	Y
Retail grocery or general store greater than 3,000 square feet of enclosed floor are	N	N	N	SP	SP
Other retail stores and services	N	N	N	SP	SP
Small scale environmentally sensitive craft production, consistent with neighborhood character	SP	SP	SP	SP	SP
Manufacturing, production, assembly, or processing firm	N	N	N	SP	SP
Research facility	N	N	N	SP	SP
Ground-Mounted Solar Electric**	**	**	**	**	**
Bulk storage, warehouse, storage units	N	N	N	N	SP
Sale or storage of feed, fuel, lumber or building supplies	N	N	N	N	SP
Wireless Telecommunications Facilities***	SP	SP	SP	SP	SP
Transportation or private bus terminal	N	N	N	N	N
Farm stand, seasonal	Y	Y	Y	Y	Y
Nursing home, funeral home	SP	SP	SP	SP	SP
Personal Kennel	Y	Y	Y	Y	Y
Ready-mix concrete plant	N	N	N	N	N
2235. **Other Principal Uses.**					
Having attributes similar to a use permitted (Y or SP) above	SP	SP	SP	SP	SP
Other principal uses	N	N	N	N	N

** = See Section 4970 for requirements and conditions, including requirement of SPR and SP

***= See Section 4900 for requirements and conditions

2240. Accessory Buildings and Uses. Any use permitted as a principal use is also allowed as an accessory use, as are others customarily accessory and incidental to permitted principal uses.

2241. Home Occupations. A business or profession may be engaged in as an accessory use of a dwelling by a resident of that dwelling, upon issuance of a special permit by the Board of Appeals, if conforming to the following conditions:

a. The occupation or profession shall be carried on wholly within the principal building or within building or other structure accessory thereto.

b. Not more than thirty (30) percent of the combined floor area of the residence and any accessory structures shall be used in the home occupation.

c. The home occupation shall be accommodated within an existing structure without extension thereof.

d. Not more than two persons not a member of the household shall be employed on the premises in the home occupation.

e. Except for a permitted sign, there shall be not more than 300 square feet of exterior storage of materials, and no other exterior indication of the home occupation, or other variation from the residential character of the premises.

f. No disturbance shall be caused as defined in Section 3420.

g. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

h. Parking generated shall be accommodated off-street, other than in a required front yard, and shall not occupy more than 10% of lot area.

i. Home occupations in an Aquifer Protection District shall not use or store hazardous materials, as defined herein, in quantities greater than 5 gallons or 5 lbs.

2241.5 Small Home Occupations. If all of the conditions of Section 2241 are met and not more than one person not a member of the household shall be employed on the premises in the home occupation, and there shall be no exterior storage, then the business or profession may be engaged in as of right as an accessory use of a dwelling by a resident of the dwelling.

2242. Animals. Horses and other animals, including pigs, chickens, and other farm animals, used for non-commercial or non-agricultural purposes, may be stabled (as an accessory use) within the RR and RV districts.

2243. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.

2244. One house trailer, camping vehicle, or tent may be used as an accessory dwelling on a lot for not more than thirty (30) days in any twelve (12) month period. **One mobile dwelling unit that does not qualify as an ADU or meet the conditions of Section 2400 may be used as an accessory dwelling on a lot for not more than thirty (30) days in any twelve (12) month period.** One house trailer, mobile home, camping trailer, or similar vehicle, not used for dwelling purposes, may be stored out of doors on a lot.

2245. No building **that does not qualify as an ADU or meet the conditions of Section 2400** shall be used as a dwelling unit if it is located on a lot with a principal structure serving as a residence.

2246. Rental of a single room in a principal residential structure is permitted as an accessory use.

2247. Dimensional Regulation: Accessory Uses. Accessory structures may not be placed within required yards, except that permitted signs may be located within a required front yard, and a permitted one-story accessory structure may be located within a required rear yard provided that it occupies not more than 25% of the required yard, and provided that it is not located within 10 feet of any property line **, and a structure that qualifies as an ADU and meets the conditions of Section 2400 may be located within a required yard provided that it meets all dimensional requirements that apply to single-family dwelling units**.

2248. Temporary Storage Units related to the construction of a home or business can be placed on a lot for 6 months or less provided that all setback requirements are met (see Section 2340. Dimensional Schedule). Extension of the time period to no more than 12 months may be granted by Special Permit from the Zoning Board of Appeals.

2250. Nonconforming Uses. Any use or structure not conforming with this By-Law may be continued if the use or structure was lawfully existing at the time it became nonconforming, subject to the following:

2251. Alteration, Extension, or Change. As provided in M.G.L.A. ch. 40A, s.6, a nonconforming single or two-family dwelling may be altered or extended provided that the Building Inspector determines that doing so does not increase

the nonconforming nature of said structure. Other pre-existing nonconforming

structures or uses may be extended, altered, or changed in use on special permit from the Board of Appeals, in accordance with Section 5300 herein, upon a finding by the Board that such alteration, extension, or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

2252. Abandonment. A nonconforming use, which has been abandoned, discontinued for a period of two years (five years for agriculture, horticulture, floriculture, silviculture or viticulture), or changed to a conforming use, shall not be reestablished, and any future use of the premises shall conform to this Zoning By-Law.

2253. Restoration. Any legally existing nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if such reconstruction is commenced within twenty-four (24) months from the date of the catastrophe (unless a longer period is granted by special permit by the Board of Appeals). Notwithstanding the above, any structure so restored shall not exceed in volume or area the original non-conforming structure, except that where the original structure was non-conforming by virtue of its relation to the set-back, rear yard, or side yard requirements of this By-Law, any restoration may exceed in volume or area the original non-conforming structure as long as the foundation of the restored structure is not in greater noncompliance, as to set-back, rear yard, or side yard, than the original structure.

2254. Premises may be changed from one category of nonconforming use to another only on special permit from the Board of Appeals. Such special permit shall be granted only for uses no more damaging or inharmonious with the environs than the use being replaced.

2255. Additions and accessory buildings which are associated with existing residences that are non-conforming by reason of being closer to lot boundaries than is permitted by these by-laws may be built as close, but not closer, to the lot boundaries than the existing residence.

2300. Dimensional Requirements.

2310. General. No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless exempted by this By-Law or by statute (see especially M.G.L.A. ch. 40A, s.6).

2320. Multiple Principal Structures. Not more than one principal structure shall be erected on a lot, unless otherwise authorized in this By-Law, or unless pursuant to a special permit issued by the Zoning Board of Appeals in accordance with Section 5300 herein and the following conditions:

2321. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire.

2322. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;

2323. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.

2330. Rear Lots. Rear lots shall not be allowed in General Business or Commercial Districts. Individual lots in Residence Districts need not have the required amount of street frontage, provided that all of the following conditions can be met for each individual lot lacking such frontage:

2331. The area of said lot is at least double the minimum area normally required for the district.

2332. A building line is designated on the plan, and the width of the lot at that line equals or exceeds the number of feet normally required for street frontage in the district. For the purpose of this section 2332 only, the building line for a rear lot shall designate the line behind which the principal building on the lot shall be built.

2333. Lot width is at no point less than 30 feet, and lot frontage is not less than 30 feet. Frontage shall meet all of the requirements contained in the definition for "frontage" in Article VI, herein.

2334. Not more than one (1) rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of April 30, 1988. Documentation to this effect shall be submitted to the Planning Board along with the application for Approval Not Required or Definitive Subdivision Plans under the Subdivision Control Law. The Building Inspector shall not issue a building permit for any rear lot without first establishing that compliance with this provision has been determined by the Planning Board.

2335. At the time of the creation of the rear lot, it shall be held in common and contiguous ownership with the front lot.

2336. The Planning Board shall not approve an application for creation of a rear lot unless the applicant submits a plan under the Subdivision Control Law depicting both the rear lot and the front lot from which the rear lot was created.

2337. Where a single-family structure is situated on a rear lot, the front, rear, and side yards shall equal or exceed those required in the district. However, where a two-family structure is situated on a rear lot, the rear lot shall have 50% more lot area, side yard setback, and frontage than is otherwise required by Section 2330 or Section 2340, whichever is greater.

2340. Dimensional Schedule. (For accessory buildings, see Section 2247, **for Accessory Dwelling Units (ADUs), see Section 2400,** for Wireless Telecommunication Facilities see Section 4900, for Ground-Mounted Solar Electric Installations see Section 4970.)

	Districts				
	RV	**RR**	**RO**	**GB**	**COM**
Minimum lot area (sq. ft.)[1, 2, 8, 9]	40,000	60,000	200,000	40,000	40,000
Minimum lot frontage (ft.)[1, 3, 8]	200	200	400	150[4]	150
Minimum front yard (ft.)[5, 7]	40	40	40	40	40
Minimum side yard (ft.)[1]	20	25	25	25	25
Minimum rear yard (ft.)[1]	30	30	30	30	30
Maximum building height (ft.)[6]	35	35	35	35	35
Maximum lot coverage (%):					
by buildings	15	10	10	20	20
by buildings, structures, and impervious surfaces	35	35	25	50	50
Minimum Open Space (%)				40	40

[1] Increase by 50% for two-family structures in the RV, RR, GB and COM Districts, after accounting for any increase in lot size required by location in an Aquifer Protection District. See Footnotes 2 and 3, below.

[2] Increase to 120,000 sq. ft. in Aquifer Protection District in the RV, RR, GB and COM Districts

[3] Increase to 300 ft. in Aquifer Protection District for single-family in RV, RR, GB and 200 ft. in COM Districts and to 450 ft. in Aquifer Protection District for two-family structure in all districts.

[4] 200 ft. for single family residences (except 300 ft. in Aquifer Protection District), 300 ft. for two-family residences (except 450 ft. in Aquifer Protection District).

[5] Or aligned with existing buildings on adjacent properties.

[6] The height provisions of these regulations shall not apply to the erection of churches, belfries, and towers designed exclusively for ornamental purposes, flagstaffs, chimneys, silos, antennae, water tanks, or similar structures.

[7] In the Rattlesnake Gutter Overlay District, no structure shall be permitted within 500 feet of the centerline of the traveled portion of Rattlesnake Gutter Road. Where a structure is proposed on a lot in existence as of March 2, 1998, which cannot meet this requirement because of size of shape, the structure shall be located at the most distant feasible development site from Rattlesnake Gutter Road, as determined by the Planning Board in accordance with section 4740, below.

[8] An approval Not Required (ANR) lot having the required frontage for the RR District on a Street in the RR District in existence on March 12, 2008 that has a portion of the lot in the RR District and a portion of the lot in the RO district may have the house sited on the RO portion of the lot without meeting the greater frontage and acreage requirements of the RO District provided that the lot meets all the dimensional requirements, including frontage, of the RR District as increased by the Aquifer Protection District requirements if applicable.

may

2400. Accessory Dwelling Units (ADUs).

2410. Purpose.

The purpose of this Section 2400 is to allow for Accessory Dwelling Units (ADUs), as defined under M.G.L. c. 40A, §1A, to be built as-of-right in Zoning Districts that allow single-family dwelling units as a Principal Use in accordance with Section 3 of the Zoning Act (M.G.L. c. 40A), as amended by Section 8 of Chapter 150 of the Acts of 2024, and the regulations under 760 CMR 71.00: Protected Use Accessory Dwelling Units. This zoning provides for by-right ADUs to accomplish the following purposes:

1. Increase housing production to address local and regional housing needs across all income levels and at all stages of life.

2. Develop small-scale infill housing that fits in the context of zoning districts that allow single-family housing while providing gentle/hidden density.

3. Provide a more moderately priced housing option to serve smaller households, households with lower incomes, seniors, and people with disabilities.

4. Enable property owners to age in place, downsize, or earn supplemental income from investing in their properties.

2420. General Provisions for All ADUs.

1. Code Compliance

a. ADUs shall maintain a separate entrance from the Principal Dwelling sufficient to meet safe egress under the Building Code and Fire Code.

b. ADU construction shall comply with 310 CMR 15.000: The State Environmental Code, Title 5 regulations for a Single-Family Residential Dwelling in the Zoning District in which the ADU is located.

c. ADUs shall be designed, built, and maintained in compliance with all other applicable Building, Health, and Fire Codes.

2. An ADU may be located in an existing structure or as a new structure located on the same lot as the

Principal Dwelling.

3. An ADU on a Lot with a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for the Single-Family Residential Dwelling (Section 2300: Dimensional Requirements) or accessory structure (Section 2247: Dimensional Regulation: Accessory Uses) within the same district, whichever results in more permissive regulation.

4. An ADU on a Lot with a Principal Dwelling that is not a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for its Principal Dwelling (Section 2300: Dimensional Requirements), or Single-Family Residential Dwelling (Section 2300: Dimensional Requirements), or accessory structure (Section 2247: Dimensional Regulation: Accessory Uses) within the same district, whichever results in more permissive regulation.

5. Off-Street Parking. An ADU must have a minimum of one (1) off-street parking space provided in addition to the off-street parking spaces required for the Principal Dwelling and utilize the current driveway/curb cut used by Principal Dwelling.

6. Short-Term Rentals. ADUs may be operated as Short-Term Rentals subject to any restrictions or prohibitions by ordinance or by-law adopted by Leverett pursuant to M.G.L. c. 64G, § 14.

2430. Protected Use ADU Conditions and Requirements. The Building Inspector, as Zoning Enforcement Officer, shall approve a Building Permit authorizing Protected Use ADU installation and use within or on a Lot with a Principal Dwelling in a Zoning District that allows a single-family dwelling as a Principal Use, including within, or on a Lot with, a Pre-Existing Nonconforming Structure, if the following conditions are met:

1. A Protected Use ADU shall comply with Section 2420. General Provisions for All ADUs.

2. Dimensional Standards. A Protected Use ADU shall not be larger than a Gross Floor Area of 900 square feet or half (1/2) the Gross Floor Area of the Principal Dwelling, whichever is smaller. Where there are multiple Principal Dwellings on the Lot, the Gross Floor Area of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

3. If there is a Transit Station established in the Town of Leverett, a Protected Use ADU located within one half (1/2) mile radius of the Transit Station will be exempt from the Off-Street Parking requirement in Section 2420.

4. Only one ADU on a Lot may qualify as a Protected Use ADU.

2440. Special Permit for Local ADUs. The Board of Appeals, as the Special Permit Granting Authority, ~~shall~~ **may** approve a Special Permit authorizing a Local ADU installation and use within, or on a Lot with, a Principal Dwelling in a Zoning District that allows a single-family dwelling as a Principal Use, including within, or on a Lot with, a Pre-Existing Nonconforming Structure, if the following conditions are met.

2441. A Local Use ADU shall comply with Section 2420.

2442. Dimensional Standards

a. A Local ADU must be larger than 900 square feet or there must be a Protected Use ADU already built on the same property.

b. A Local ADU shall not be larger than a gross floor area of 1,200 square feet.

2450. Special Permit for Multiple ADUs on a Lot. A special permits for an ADU on a Lot where an ADU is already located in a Zoning District that allows a single-family dwelling as a Principal Use may be issued by the Board of Appeals upon a finding that the construction and occupancy of the additional ADU will not be detrimental to the neighborhood in which the Lot is located, after consideration of the factors specified in Section 5300 of this Zoning By-Law, governing special permits, and the following conditions are met.

2451. The additional ADU shall be classified as a Local ADU and must comply with Section 2440.

2452. A plot plan, prepared by a Registered Land Surveyor, showing the existing and proposed structures, septic systems, and parking, shall be submitted to the Board of Appeals. A mortgage inspection survey,

properly adapted by a surveyor, shall be sufficient to meet this requirement.

2453. Any special permit shall be subject to review and approval by the Board of Health as to sanitary wastewater disposal in full conformance with the provisions of 310 CMR 15.00 (Title V of the State Environmental Code). The Board of Health shall also approve water supply and drainage resulting from the proposed ADU as adequate for the proposed construction.

2460. Special Permit Granting Authority. The Board of Appeals **may** be the Special Permit Granting Authority under this Section 2400.

2461. A special permit granted by the Board of Appeals shall lapse in two years in accordance with the special permit process in this Zoning By-Law, as set forth in Section 5300.

2500. Demolition Delay.

Prior to the issuance of any demolition permit for either:

a. A building or structure over 100 years old on the date of application or

b. A building or structure placed on a list filed by the Leverett Historical Commission with the Leverett Building Inspector prior to the date of application, because such building or structure is an Historically Significant Building, as defined in Chapter 61 of the Code of the Town of Leverett,

the applicant shall have complied with the Demolition Delay provisions of Chapter 61 of the Code of the Town of Leverett.

ARTICLE III. GENERAL REGULATIONS.

3100. Parking and Loading Requirements.

3110. General. Adequate off-street parking must be provided to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Such parking shall be on the same premises as the activity it serves, or within 300 feet on a separate parcel, which may be jointly used with other premises for this purpose, provided that the continued joint use of such parcel be ensured through an agreement recorded in the Registry of Deeds.

3120. Schedule of Parking Area Requirements. In applying for a building or occupancy permit, the applicant must demonstrate that the following minimums will be met for the new demand without counting existing parking:

Principal Use Dwellings: Two spaces per dwelling unit.

Accessory Dwelling Units (ADUs): One space per dwelling unit. See Section 2400.

Motels, hotels, lodging houses: One space per guest unit plus one additional space per eight guest units or fraction thereof.

Retail stores, offices: One space per 150 square feet of leasable floor area.

Industrial or wholesale: Four spaces per five employees on the largest shift.

Places of assembly: One space per three seats, or one space per 12 square feet of seating area, whichever is greater.

Hospitals: One space per bed.

Nursing homes: One space per four beds.

All others: As determined by the Building Inspector.

3130. Parking Area Design. No off-street parking area shall be maintained within 20 feet of a street right-of-wayline. All required parking areas except those serving single-family or two-family residences shall be paved or covered with some other appropriate surface, except that oil and stone surfaces shall not be permitted. For parking areas of eight (8) cars or more, Sections 3131 - 3132 shall apply:

3131. Parking area use shall not require backing onto a public way.

3132. Parking lots for 8 or more cars shall be screened from any residential use or district which is abutting or separated from it only by a street, pursuant to Section 3432.

3140. Loading Requirements. Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no trucks need back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so.

3200. Sight Obstruction.

At corners, no sign (except signs erected by a public agency), fence, wall, hedge, or other obstruction shall be allowed to block vision between 2 1/2 and 8 feet above the street grade within an area formed by the intersecting street lines and a straight line joining the points of said street lines 20 feet back from their point of intersection.

3300. Signs.

3310. In Residence Districts the following signs are permitted.

3311. For each residence or permitted accessory use, one sign not over six square feet in area is allowed.

3312. For permitted buildings, structures and uses of the premises, other than one or two family dwellings and their accessory uses, two signs not over six square feet in total area are allowed, unless the Board of Appeals grants a special permit for a larger sign.

3313. Temporary, unlighted signs pertaining to the construction, lease or sale of the premises are allowed provided such signs do not exceed 6 square feet in total area.

3320. In General Business and Commercial Districts, signs advertising the name of the firm and the products and services produced or available on the premises are permitted only as follows:

3321. One (1) sign or other advertising device attached flat against the wall of a building, which does not project above the wall to which it is attached and which does not project more than 24 inches from the building shall be allowed for each firm on the premises. The aggregate sign(s) or device(s) serving all firms on the premises shall not exceed 32 square feet in area, and no single sign shall exceed 16 square feet in area. One additional sign serving all firms may be attached to a marquee which is an integral part of the building provided the total area of such sign does not exceed six square feet.

3322. As an alternative to Section 3321, one sign or other advertising device of a free-standing nature may be erected for each firm or such signs may be combined into one or more units provided that in all cases the total sign area for the premises does not exceed 16 square feet in area and 15 feet in height. All such signs shall be located at least 10 feet from the public right-of-way and 20 feet from the principal structure(s) on the premises.

3330. General Sign Restrictions.

3331. Signs, announcements, or bulletin boards not exceeding 16 square feet in area are allowed in all zoning districts in connection with public, charitable or religious uses.

3332. No sign or advertising device shall project over any pedestrian or vehicular way customarily used by the public.

3333. No exterior sign or advertising device shall incorporate motion or be lighted by flashing or blinking lights or utilize a change in light intensity.

3334. All illumination of signs or other advertising devices shall be shielded or indirect. No exterior sign or interior sign visible from the exterior of the structure shall be illuminated during hours the business is not open, provided, however, that no sign in a Residence District shall be illuminated after 9:00 p.m.

3335. No non-accessory sign or billboard shall be allowed.

3336. Signs required by federal or state law are allowed in all districts. Signs posting land against trespassing, hunting, or fishing, are also allowed in all districts.

3340. Signs Allowed on Special Permit. The Board of Appeals may grant special permits as follows, without application of Section 5330.

3341. For changes in existing signs on nonconforming uses in Residence Districts provided such changes are within the limits established for General Business and Commercial Districts, and not detrimental to the neighborhood.

3342. For a directional or identification sign in any district where such sign will serve the public convenience and not be detrimental to the neighborhood with respect to size, location, or design.

3350. Temporary Signs. Temporary signs (except for signs relating to sale, rental, or construction on the premises governed by Section 3313) referring to a political campaign public event shall be allowed, provided that each sign does not exceed twelve (12) square feet in area. No such temporary sign shall be displayed more than one month prior to the election or event, and such signs shall be removed within 7 days of the completion of the activity to which they relate.

3400. Environmental Controls and Septic Regulations.

3410. Erosion Control. Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

3411. Grading or construction, or natural site characteristics, which will result in final slopes of 20% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single parcel, even if less than half the lot area, shall be allowed only under special permit from the Board of Appeals, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Section 5330 shall not be applicable to such special permit applications. Applications and plans for such special permits shall be referred to the Conservation Commission for their advisory review.

3412. All slopes exceeding 15% from site grading shall either be covered with topsoil to a depth of 4" and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.

3413. No area or areas totaling 2 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6" or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Board of Appeals on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible. Section 5330 shall not be applicable to such special permit applications.

3414. The Building Inspector shall require information of the applicant, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations at key locations, description of vegetative cover, and the nature of impoundment basins proposed, if any.

3415. Where resultant site grades will exceed 15%, the town shall require a performance bond to ensure compliance with these requirements.

3416. Hillside areas shall be retained with vegetative cover as follows:

Average percentage slope	Minimum percentage of land to remain in vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 and above	85

3420. Disturbances. No use shall be allowed if it will cause sound, noise, vibration, odor or flashing (except for warning devices, temporary construction, or maintenance work, parades, recreational or agricultural activities, or other special circumstances) so as to create a nuisance.

3430. Landscaping.

3431. Parking lots for 8 or more cars shall contain, or be bordered (within 5 feet) by, at least one tree per 5 cars or fraction thereof, trees to be of 2" caliper or larger, and if within the parking area, to be planted in curbed soil plots allowing not less than 30 square feet of unpaved soil area per tree.

3432. All outdoor sales display areas, all commercial buildings or commercial outdoor recreation areas, parking areas with more than 8 spaces, all mobile homes, and all two-family structures shall be screened from any adjacent residential use or district by a wall, fence, or be equivalently obscured by natural vegetation. Contractor's yards, open storage, loading facilities, or service yards shall be similarly screened from any adjacent residential district or use and from any public way from which they would otherwise be visible, and shall not be located within any required front yard.

3440. Septic Regulations.

3441. All septic systems installed after May 1, 2002 shall be located entirely upon the Lot on which the dwelling, which is to be served, is located.

3442. The provisions of Section 3440 shall not apply to the repair, or replacement of any failed septic system, to the extent the application of such provisions would, as determined by the Board of Health of the Town of Leverett, unreasonably negatively impact such repair or replacement.

3500. Driveway Regulations.

3510. General. For the purpose of promoting the safety of the residents of the Town, an application for a building permit for a residential structure shall include a plan, at a scale of 1" = 100 ft., showing the driveway serving the premises, and showing existing and

proposed topography at 10 ft. or 3 meter contour intervals. All driveways shall be constructed in a manner ensuring reasonable and safe access from the public way serving the premises to within a distance 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles. The Building Inspector shall not issue a building permit for the principal structure on the premises unless all of the following conditions have been met:

3511. Except in access strips of less than fifty (50) feet width to rear lots, no driveway shall be located within ten (10) feet of any side or rear lot line without written approval by the appropriate abutter(s), or by special permit by the Board of Appeals after a determination that said driveway will provide safe and reasonable access for all vehicles (without applying Section 5330 to said application).

3512. The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of five hundred (500) feet, unless the Board of Appeals shall grant a special permit after a determination that said driveway will provide safe and reasonable access for all vehicles (without applying Section 5330 to said application).

3513. The grade of each driveway where it intersects with the public way shall not exceed eight percent (8%) for a distance of 20 feet from the travel surface of the public way unless the Board of Appeals shall grant a special permit after a determination that said driveway will provide safe and reasonable access for all vehicles (without applying Section 5330 to said application).

3514. Driveways serving the premises shall provide access through the required frontage of the serviced lot, except in the case of a "common driveway" under Section 3520, herein.

3520. Common driveways serving not more than two (2) lots may be allowed on special permit by the Board of Appeals, after consideration of the criteria set forth in Section 5330, herein; provided both lots meet the standards for "frontage" as set forth in Article VI. A common driveway must satisfy all of the conditions in Sections 3511-3513, as well as all of the following conditions:

3521. The centerline intersection with the street centerline shall not be less than 54 degrees;

3522. A minimum width of 12 feet shall be maintained over its entire length;

3523. A roadway surface of a minimum of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed;

3524. The driveway shall be located entirely within the boundaries of the lots being served by the driveway;

3525. Proposed documents shall be submitted to the Board of Appeals demonstrating that, through easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

3526. The driveway shall provide access through the required frontage of one of the two serviced lots.

3600. Unregistered Motor Vehicles.

Unregistered motor vehicles (other than farm vehicles) which are unfit for use, permanently disabled, or otherwise inoperative shall not be stored, parked, or placed upon any land in the Town for more than thirty (30) days unless such vehicles are kept within a building or are otherwise screened or located so as not to be visible from a public way or from abutting properties. Vehicles which are kept in an area properly approved for such storage by a licensed dealer in motor vehicles are exempt from this by-law.

3800. Subdivision Phasing.

3810. Purpose. The purpose of Section 3800, "Subdivision Phasing," is to assure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, and so that it will be in keeping with the community's desired rate of growth.

3820. Applicability. Any division of land into more than 10 lots in any twelve month period shall be subject to the following regulations and conditions set forth herein.

3830. Requirements. Whenever a new lot or lots is or are formed from a part of any other lot or lots, the assembly or separation shall be effected in such a manner as to not impair any of the requirements of this by-law, and shall be in accordance with the Subdivision Regulations of the Town of Leverett.

3840. Division of Land Limitations. The division of a parcel or combined adjacent parcels of land in any zoning district shall not exceed ten (10) lots in any twelve month period. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of April 25, 1987. The foregoing provisions shall be applicable to all subdivision of land within the Town of Leverett even if approval under the Subdivision Control Law, G.L. c. 41, is not required.

3850. Exceptions. Division of land in excess of ten (10) lots as defined in Section 3840, above, may be allowed only if one of the following requirements are met:

3851. The owner of said land covenants with the Planning Board that she will not build upon more than ten (10) lots in any 12 month period. Said 12 month period shall commence on the date of endorsement by the Planning Board. The covenant shall identify the lots that may be built upon in each 12 month period. The covenant shall be recorded with all other pertinent documents with the Definitive Plan or the plan which has been endorsed "Approval Not Required;"

3852. The owner of said land applies for and receives a special permit from the Planning Board to create more than 10 lots in any 12 month period. The Planning Board may grant a special permit for such division only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, and housing for senior citizens and people of low or moderate income, as well as Master Plan or Growth Management Plans prepared by the Planning Board pursuant to M.G.L.A. ch. 41, s. 81D. Section 5330 shall not be applicable to such special permit applications.

3860. Zoning Change Protection. The protection against subsequent zoning change granted by M.G.L.A. ch. 40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this Section 3800, or subject to the covenant as provided in Section 3851, be extended to ten years.

3870. Relation to Real Estate Assessment. Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with M.G.L.A. ch. 59, s. 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

3900. Site Plan Review.

3910. Applicability and Procedure. Applications for building permits for duplexes, or for nonresidential or nonagricultural construction, including applications for extensions, alterations, or changes to duplexes, available as of right, shall be accompanied by an approved Site Plan in accordance with the criteria specified below. Such approval from the Planning Board shall be obtained prior to application for a building permit. An applicant shall file a completed application with the Town Clerk. The Town Clerk shall acknowledge receipt of the plans by signing and dating the application form. The application submitted to the Town Clerk shall include seven (7) copies of each of an application form, the Site Plan and any narrative documents as outlined in the submittal requirements. Upon receipt of the application, the Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, Board of Health,

Highway Superintendent, Fire Chief and the Police Chief. These Town Boards and municipal officials shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations, and they can attend the public hearing(s). No building permits for projects requiring Site Plan Review shall be issued until the Planning Board has approved the Site Plan or unless the required time period for taking action on a Site Plan has lapsed without action from the Planning Board.

Public Hearing. The Planning Board shall hold a public hearing within 65 days after the filing of an application and shall take final action on an application for Site Plan approval within 90 days of the close of the public hearing. Notice and posting of the public hearing shall comply with regulations adopted by the Planning Board, which the Planning Board may amend from time to time. To the extent permitted by law, the public hearing should be coordinated with any other public hearing required for a definitive subdivision plan.

3920. Plans. Plans subject to this section shall comply with the Planning Board Regulations for Site Plan Review

3930. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer and a Registered Land Surveyor. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=200'.

3940. Decision. The Planning Board's action shall consist of either:

a. Approval of the site plan based upon the determination that the proposed project is in compliance and consistent with the criteria set forth in this By-law;

b. Approval of the site plan subject to conditions, modifications, and restrictions as the Planning Board may deem necessary; or

c. Denial of the site plan based upon specific findings such a determination that there was insufficient information submitted with the proposal to adequately review it or that the project is inconsistent with the requirements of these Zoning By-laws.

Site Plan approval may be granted upon determination by the Planning Board that the following conditions have been satisfied. The Planning Board may impose reasonable conditions, even at the expense of the applicant, to ensure that the following conditions have been satisfied. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board`s Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

3941. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

3942. Maximize pedestrian and vehicular safety both on the site and egressing from it;

3943. Minimize obstruction of scenic views from publicly accessible locations;

3944. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

3945. Minimize glare from headlights through plantings or other screening;

3946. Minimize lighting intrusion through use of such devices as cut-off luminaries confining direct rays to the site, with fixture mounting not higher than 20 feet;

3946. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways.

3947. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances.

The decision of the Planning Board shall be filed with the Town Clerk within 90 days of the close of the Public Hearing and the written record of the decision including any approved Site Plan shall be filed with the Town Clerk within 14 days of the final vote or sooner to meet the 90 day maximum time frame. A copy of any approved Site Plan and the decision of the Planning Board shall be sent by the Applicant to the Building Inspector and to the Registry of Deeds.

3950. Lapse. Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

3960. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

ARTICLE IV. SPECIAL REGULATIONS.

4100. Campers and Campgrounds.

4110. Campers. Campers may be occupied either in campground, or by non-paying guests accessory to a residence for up to 30 days in any calendar year. Campers may be stored accessory to a residence.

4120. Campgrounds. Campgrounds are allowed only on special permit from the Board of Appeals, and following approval from the Board of Health, and shall conform to the following minimum requirements:

4121. Parcel minimum area to be twenty (20) acres.

4122. Each rental plot shall be at least 5,000 sq. ft., and not more than 50 plots shall be allowed per campground.

4123. Campers shall not be placed within 80 feet of a street or a lot line.

4124. Site plan approval shall be obtained from the Planning Board.

4200. Earth Removal. The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil, loam, or similar materials within any twelve-month period shall be allowed only on special permit from the Board of Appeals, unless such removal is incidental to construction on the premises under a current building permit, or routine to farming operations and noncommercial. A special permit shall be granted subject to the following conditions, and subject to the special permit criteria of Section 5300, below.

4210. Plan. The application shall be accompanied by a plan or plans indicating existing topography, base grades below which no excavation will take place, existing and proposed cover vegetation, and proposed topography upon completion.

4220. Screening and Noise. Excavation areas and processing equipment shall be screened by buffer strips or other means, and noise and dust shall be controlled to meet the requirements of Section 3420.

4230. Restoration. Following removal, all excavated areas shall be restored by grading to provide for drainage and for slopes not to exceed one foot vertical to two feet horizontal, and by covering with four inches of topsoil, and by planting with cover vegetation, all of which shall have been established prior to release of the bond.

4240. Bond. A performance bond shall be posted in an amount sufficient to assure satisfactory fulfillment of all of the above requirements.

4300. Aquifer Protection District.

4310. Purpose. The purpose of the Aquifer Protection District is to protect the public health by preventing contamination of the ground and surface water resources providing existing or potential public water supply, as may be contained within the aquifer recharge areas within the town.

4320. Establishment of Districts. The Aquifer Protection Districts are herein established as overlay districts. The Aquifer Protection Districts include aquifer recharge areas, as identified on the map entitled "Aquifer Protection District Overlay," Leverett, Mass., January 1987. The map is hereby made a part of this Zoning By-Law and is on file in the office of the Town Clerk.

4321. Where a portion of the lot is located partially within and partially without an Aquifer Protection District, site design shall, to the extent feasible, locate potential pollution sources outside the district boundaries. If any portion of a proposed residential building lot lies within an Aquifer Protection District, the entire lot shall be subject to the dimensional requirements and restrictions of the Aquifer Protection District, unless a special permit is issued by the Board of Appeals in accordance with Section 4380, herein. Notwithstanding the foregoing dimensional requirements and restrictions of the Aquifer Protection District if (a) the portion of the lot that is entirely out of the Aquifer Protection District is shown on a record able plan as complying with the Dimensional Schedule for the underlying District and (b) it is indicated on the plan that no structure shall be erected in the portion of the lot in the Aquifer Protection District.

4322. Where the boundaries of the Aquifer Protection District are in doubt or dispute, the burden of proof shall be upon the owner of the land in question to show where the boundaries shall be properly located. Resolution of boundary disputes shall be through a finding made by the Planning Board. Any application for a finding under this subsection 4322 shall be accompanied by documentation prepared by a person who meets the following two requirements:

1. Is experienced in delineating hydrogeologic zones in Massachusetts, and
2. Has one of the following credentials:

TITLE	CONFERRING ENTITY
Registered Professional Hydrogeologist	American Institute of Hydrology
Certified Professional Geologic Scientist	American Institute of Professional Geological Scientists
Registered Professional Engineer, Sanitary	Commonwealth of Massachusetts
Certified Ground Water Professional	Association of Ground Water Scientists and Engineers
Certified Professional Soil Scientist	American Registry of Certified Professionals in Agronomy, Crops, and Soils, Ltd.

The Planning Board may require the applicant, in making the determination of the location and extent of aquifer recharge areas (where such are in doubt or dispute), to conduct such field tests, at the applicant's expense, including core samples of the soil, as may be reasonably necessary.

4330. Use Regulations.

4341. Within an Aquifer Protection District, the requirements of the underlying districts continue to apply, except that uses are prohibited where indicated by "N" in the following schedule, and require a Special Permit where indicated by "SP", even where the underlying district requirements are more permissive. Uses permitted in the underlying districts are otherwise allowed in an Aquifer Protection District.

S C H E D U L E

1.	PRINCIPAL USES	
(a)	Manufacture, use, storage, transport, or disposal of more than 5 gallons or 5 lbs. of hazardous materials per year	N
(b)	Sanitary landfill, solid waste disposal (except stump and brush disposal)	N
(c)	Septage lagoon .…	N

(d)	Road salt stockpile	N
(e)	Junkyard, salvage yard, truck terminal or school bus parking facility with more than 10 parking spaces, railroad transfer station	N
(f)	Gasoline station, car wash, auto repair or auto body shop	N
(g)	Residential, commercial, or industrial structure on a lot with less than 120,000 sq. ft., or with less than 300 ft. frontage (except rear lotor single family structure in COM district with 200 ft. frontage)	N
(h)	Wood preserving and furniture stripping operations	N
2.	ACCESSORY USES	
(a)	Underground storage or transmission of hazardous materials, including fuel oil and gasoline ….	N
(b)	Aboveground storage of hazardous materials in quantities greater than 5 lbs. or 5 gallons, except storage of fuel oil for residential accessory use	SP
(c)	Any use generating hazardous wastes in quantities greater than 5 gallons or 5 lbs….	SP
(d)	Animal feedlots, manure storage, pesticide storage	SP
3.	OTHER USES	
(a)	Rendering impervious more than 20 percent of total lot area, regardless of size	N
(b)	Any use, regardless of lot size retaining less than 60 percent of lot area in its natural vegetative state	SP
(c)	Removal of earth, loam, sand, and gravel, or any other mineral, in excess of 10 yards, not incidental to construction of a building….	SP
(d)	Any use having on-site disposal system for domestic wastes with a design capacity greater than 2500 gallons per day, as required by 310 CMR 15.00	SP

4340. Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) shall be the Board of Appeals. Such Special Permit may be granted if the SPGA determines that the intent of this Section 4300, as well as the specific criteria of Section 4360 are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed. Any Special Permit required under this Section 4300 shall be in addition to, and separate from, any other Special Permit required under any section of this Zoning By-Law.

4350. Procedure. Applicants shall file six (6) copies of applications for Special Permits with the Board of Appeals. Whenever an application for a Special Permit is filed with the Board of Appeals under Section 4340, the Board of Appeals shall transmit within 10 working days of the filing of the completed application, copies of the application and other documentation, to the Board of Health, Planning Board, Conservation Commission, and the Building Inspector for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. Failure of these reviewing parties to make recommendations within 35 days after having received copies of all such required materials shall be deemed a lack of opposition thereto. The Decision/Findings of the Board of Appeals shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

4360. Special Permit Criteria. Special Permits hereunder shall be granted only if the SPGA determines (without application of Section 5330), after reviewing the recommendations of the reviewing parties delineated in Section 4350, that the proposed use:

4361. Is in harmony with the purpose and intent of this by-law and will promote the purpose of the Aquifer Protection District;

4362. Is appropriate to the existing topography, soils, and other natural characteristics of the site to be developed;

4363. Is adequately provided with sewage and water facilities or possesses suitable soils for on-site wastewater disposal and water systems;

4364. Will not have an adverse environmental impact on any watershed, watercourse, or water body in the district, during construction or thereafter;

4365. Will not result in groundwater quality below the more restrictive of federal or state standards for drinking water, or, if existing groundwater quality is already below those standards, on-site disposal or operations will result in no further deterioration.

4370. Submittals. In applying for a Special Permit hereunder, the SPGA shall require the information listed below, unless waived or modified by the SPGA, with reasons therefore. An application shall not be deemed filed until all required information is filed with the Board of Appeals.

4371. A description of soil erosion and sedimentation control measures; provisions to prevent soil compaction; provisions to prevent seepage from septic systems or from interior floor surfaces.

4372. A complete list of all chemicals, pesticides, fuels, or other potentially hazardous materials to be used or stored on the premises in quantities greater than 5 gallons or 5 lbs. accompanied by a description of the measures proposed to protect all storage containers from vandalism, corrosion, and leakage, and to provide for control of spills.

4373. A description of all potentially hazardous wastes to be generated in quantities greater than 5 gallons or 5 lbs., accompanied by a description of the measures proposed to protect all waste storage facilities from vandalism, corrosion, and leakage, and to provide for control of spills.

4374. For aboveground storage of hazardous materials or waste, certification by a Registered Professional Engineer that such storage facilities or containers are (i) in compliance with all applicable federal or state regulations, and (ii) in compliance with design specifications, as prepared by a Registered Professional Engineer.

4375. For any proposed activity on a lot which will render more than 20 percent of the total lot area impervious, the application shall be accompanied by drainage calculations, prepared by a Registered Professional Engineer, demonstrating that any increase in the volume of runoff shall be recharged on-site and diverted towards areas with vegetation for surface infiltration to the maximum extent feasible. The plan shall be accompanied by a narrative statement explaining the use of any dry wells, which shall be allowed only upon a showing that other methods of drainage are infeasible, and that such dry wells are preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

4376. For any use retaining less than 60 percent of lot area in its natural vegetative state, the application shall be accompanied by evidence, prepared by a Registered Professional Engineer, to demonstrate that such removal of vegetative cover shall not result in decreased recharge of the groundwater deposit, or increased sedimentation of surface waters. The application shall also indicate proposed restoration plans, if any, or erosion control methods proposed for the premises.

4377. For any use with an on-site disposal system for domestic wastes with a design capacity of greater than 2,500 gpd, as required by 310 CMR 15.00, certification by a Registered Professional Engineer that the disposal system has been installed in compliance with design specifications, accompanied by a narrative statement assessing the impact, if any, of nitrates, coliform bacteria, and hazardous materials from the disposal system on any wells downgradient from the proposed disposal system.

4378. Applications for removal of earth, loam, sand, and gravel, or any other mineral in excess of ten cubic yards, shall be accompanied by a narrative statement, prepared by a Registered Professional Engineer, assessing the impact, if any, of the proposed activity on groundwater quality downgradient to any well. No excavation or removal shall be conducted within ten (10) feet of the seasonal high water table on the property in question.

4379. Applications for animal feedlots or manure lots shall be accompanied by certification, prepared by the Soil Conservation Service, or the Agricultural Stabilization and Conservation Service, that the proposed use is in accordance with the Best Management Practices of that agency.

4380. Special Permits for Dimensional Restrictions for Residential Lots. Any residential building lot lying partially within and partially without the Aquifer Protection District may apply for a special permit to waive application of the more stringent dimensional requirements of this Section 4300. The SPGA may grant such special permit (without application of Section 5330), only upon a determination that the residential construction will not increase ground or surface water pollution. In making such determination, the SPGA shall consider the following factors:

4381. The use of the lot, the type and nature of proposed structure(s), pollution sources to be placed thereon (including wastewater disposal);

4382. The use of adjacent lots, type and nature of pollution sources thereon (including wastewater disposal);

4383. The location of any wells or other domestic water supplies on the lot or an adjacent lot;

4384. The percentage of the lot within the Aquifer Protection District;

4385. The density of the surrounding area;

4386. The topographical and geological features of the lot;

4387. The extent to which structures and potential pollution sources will be located on the lot without the Aquifer Protection District.

4390. Nonconforming Uses. Any nonconforming use may continue in the Aquifer Protection District, pursuant to G.L. c. 40A, s. 6, and may be extended, altered, or changed provided that the Board of Appeals, as a part of the finding or special permit decision required, determines that such extension, alteration, or change will not increase the danger of groundwater pollution from the premises.

4400. Floodplain Overlay District

After years of devastation from flooding across the nation, Congress created the National Flood Insurance Act of 1968 in an attempt to offer flood disaster relief in the form of insurance. This insurance would be available to residents of communities that voluntarily adopt and enforce floodplain management ordinances that meet at least minimum National Flood Insurance Program (NFIP or the Program) requirements.

4410. Purpose.

The purpose of the Floodplain Overlay District is to:

1. Ensure public safety through reducing the threats to life and personal injury.

2. Eliminate new hazards to emergency response officials.

3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.

4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.

   a. Eliminate costs associated with the response and cleanup of flooding conditions.

   b. Reduce damage to public and private property resulting from flooding waters

4420. Establishment of District & NFIP Requirements.

The local floodplain overlay district is hereby established as an overlay to all other districts. All development in the floodplain overlay district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with:

- 780 CMR- Massachusetts Statewide Building Code and
- 310 CMR- Department of Environmental Protection Regulations

4421.Use of FEMA maps and supporting studies

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on Leverett's most recent Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated June 4, 1980 and on the Flood Boundary & Floodway Map (if applicable) dated June 4, 1980. These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated December 1979. The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

4422. Designation of community Floodplain Administrator.

The Town of Leverett hereby designates the Town Administrator to be the official floodplain administrator for the Town.

4423. Permits are required for all proposed development in the Floodplain Overlay District

The Town of Leverett requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

4424. Assure that all necessary permits are obtained

The Town's permit review process includes the requirement that the proponent of development obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits and must demonstrate that all necessary permits have been acquired.

4425. Floodway encroachment

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's Flood Boundary & Floodway Map encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

4426. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

4427. Subdivision proposals

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

1. Such proposals minimize flood damage.
2. Public utilities and facilities are located & constructed so as to minimize flood damage.
3. Adequate drainage is provided.

4428. Base flood elevation data for subdivision proposals

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

4429. Recreational vehicles

In A, A1-30, AH, AO, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

4430. Watercourse alterations or relocations in riverine areas

In a riverine situation, the Community Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream;
- Bordering States, if affected;
- NFIP State Coordinator;
- Massachusetts Department of Conservation and Recreation;
- NFIP Program Specialist: Federal Emergency Management Agency, Region 1.

4431. Requirement to submit new technical data

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- NFIP State Coordinator;
- Massachusetts Department of Conservation and Recreation;
- NFIP Program Specialist: Federal Emergency Management Agency, Region 1.

4432. Variances to building code floodplain standards

The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

4433. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

4434. Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

4434. Disclaimer of liability

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

4435. Severability section

If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

4436. Local Enforcement

The Town shall be responsible for enforcing and documenting specific actions, including stop work orders, citations, and penalties (which may include fines and/or jail time) taken by the community for non-compliant floodplain development, including but not limited to enforcement of building code regulations, enforcement of the Wetlands Protection Act, and other NFIP floodplain development requirements. The Floodplain Administrator will coordinate enforcement with local boards/committees and regional/state agencies and be responsible for documenting the specific actions taken.

4440. Definitions not found in the State Building Code

4441. DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

4442. FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

4443. FLOOD HAZARD BOUNDARY MAP (FHBM.) An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

4444. FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

4445. FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] also [Referenced Standard ASCE 24-14]

4446. HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

4447. HISTORIC STRUCTURE means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National

Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

4448. NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

4449. RECREATIONAL VEHICLE means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59]

4450. REGULATORY FLOODWAY - see FLOODWAY.

4451. SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

4452. START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

4453. STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title

44, Part 59]

4454. SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

4455. VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

4456. VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

4460. Definitions of Flood Zones

4461. ZONE A means an area of special flood hazard without water surface elevations determined

4462. ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

4463. ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

4464. ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

4465. ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

4466. ZONES B, C, AND X mean areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

4600. Scenic Roads Protection.

4610. Purpose and Applicability. Pursuant to G.L. c. 40, s. 15C, the Town of Leverett has designated all public ways as Scenic Roads. Designation as a Scenic Road allows the town to preserve the qualities and character of town ways. It is the intent of this by-law to further that purpose.

4620. Requirements. Any repair, maintenance, construction, reconstruction, or paving work done with respect to a Scenic Road shall not involve or include the cutting or removal of trees of more than 10" dbh (diameter/breast height), or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the

Planning Board. The Planning Board will hold a hearing pursuant to G.L. c. 40, s. 15C on such application.

4630. Decision. The Planning Board shall consider the following criteria in reviewing applications under this Section 4600:

4631. Public safety;

4632. Enhancement of scenic views along the roadway;

4633. Preservation of historic and other existing features;

4634. Preservation of the natural environment.

4640. Regulations. The Planning Board may adopt reasonable regulations for the administration of this by-law.

4700. Rattlesnake Gutter Overlay District.

4710. Purpose. It is the intent of this Section 4700 to protect the natural, geological and historic character of the Rattlesnake Gutter Overlay District, while providing for reasonable use of private land.

4720. Establishment of District. The Rattlesnake Gutter Overlay District is herein established as an overlay district. The Rattlesnake Gutter Overlay District includes all land set back one thousand feet on both the north and south sides of Rattlesnake Gutter Road, as measured from the centerline of the traveled portion of the way, situated between the Sawmill River on the east and the stone bridge running under Rattlesnake Gutter Road on the west, near the intersection of Old Cave Hill Road and Rattlesnake Gutter Road, all approximately as shown on a map entitled "Rattlesnake Gutter Overlay District, Town of Leverett, MA,1998", hereby appended to and made a part of this By-Law.

4721. Where the boundaries of the Rattlesnake Gutter Overlay District are in doubt or dispute, the burden of proof shall be upon the owner of the land in question to show where the boundaries shall be properly located.

4730. Use Regulations. Within the Rattlesnake Gutter Overlay District, the requirements of the underlying districts continue to apply, except that the following regulations shall supersede otherwise applicable requirements:

4731. Setbacks. No structure shall be permitted within 500 feet of the centerline of the traveled portion of Rattlesnake Gutter Road. Where a structure is proposed on a lot in existence as of March 2, 1998 which cannot meet this requirement because of size or shape, the structure shall be located at the most distant feasible development site from Rattlesnake Gutter Road, as determined by the Planning Board in accordance with section 4740, below.

4732. Buffer Zone. No live vegetation shall be removed, nor shall excavation occur, within 250 feet of the centerline of the traveled portion of Rattlesnake Gutter Road, or within two-thirds the distance between any structure and the front lot line on Rattlesnake Gutter Road, whichever is lesser. The provisions of the prior sentence shall not apply to (a) the cutting of cordwood for the personal use of the lot owner, or (b) the harvesting of trees in accordance with cutting plans in conformity with all applicable Massachusetts forestry regulations and also approved by the Planning Board prior to any such cutting or (c) the construction of a driveway or the installation of utilities. Notwithstanding the first sentence of this paragraph to the contrary, the owner of any lot existing as of March 18, 1998 which is at least five (5)

acres and which is primarily devoted to the production of forest products for which a Forest Cutting Plan (M.G.L. Ch. 132 S40.-46)has been filed with and approved by the State Department of Environmental Management may harvest wood in accordance with such plan. Notwithstanding the foregoing to the contrary, in the event of a natural disaster or other even threatening public safety, cutting or removal of live vegetation within the Buffer Zone may occur, after determination of such emergency by the Selectboard, but only to the extent deemed necessary by the Selectboard or their agent.

4740. Site Plan Review. Applications for building permits or special permits within the Rattlesnake Gutter Overlay District shall be accompanied by four (4) copies of a site plan in accordance with the criteria specified below. The Building Inspector or the special permit granting authority shall forthwith forward such site plans to the Planning Board. Where applicable, the requirements of Section 3900 remain in full force and effect, in addition to these requirements under Section 4700. The Planning Board shall consolidate site plan review in such cases.

4741. Procedure. Site plans accompanying applications for building permits or site plans accompanying applications for special permits shall be processed in accordance with the specifications of Section 3910, above.

4742. Plans. Plans subject to this section shall show:

a. Existing and proposed topography at 10 foot or 3 meter contour intervals for the purposes of this subsection a USGS (United States Geological Services) Map with a 1:24,000 or 1:25,000 scale is acceptable;

b. All boundary line information pertaining to the land sufficient to permit location of same on ground, including the location of the frontage for the lot;

c. Location and height of the proposed structure(s); photographs or renderings of the elevation of the proposed structure(s) and any alterations;

d. Parking, access, and egress provisions;

e. Location of existing stonewalls, large trees, and wooded areas, and proposed removal or retention of same;

f. Compliance with all applicable provisions of this Zoning By-Law.

Site plans shall be submitted on 24-inch by 36-inch sheets. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=200'.

4743. Decision. Site plan approval shall be granted upon determination by the Planning Board that the development complies, to the maximum extent feasible,

with the following criteria and standards. The Planning Board may impose reasonable conditions, even at the expense of the applicant, to ensure that the criteria and standards have been satisfied. Except where the applicant has removed, or caused to be removed, mature trees from the site, whether pursuant to 304 CMR 11.00 or not, the Planning Board shall not require the planting of mature trees as a condition of site plan approval. New building construction or other site alteration shall be designed in the site plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

a. Minimize the number of removed trees 6" caliper or larger and the length of removed stone walls;

b. Minimize disruption of scenic views from publicly accessible locations;

c. Minimize visual intrusion by controlling the visibility of the principal and accessory structures, parking, storage, or other outdoor service areas as viewed from public ways;

4744. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these site plan guidelines.

4800. Flexible Development.

4810. Purpose. The purpose of this Section 4800, Flexible Development, is to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use; to preserve historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Leverett's traditional New England landscape; to allow landowners a reasonable return on their investment; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of housing affordable to low and moderate income families.

4820. Applicability. Any creation of seven (7) or more lots, whether a subdivision or not, from a parcel or set of contiguous parcels held in common ownership, may proceed under this Section 4800, Flexible Development, and Section 4880 Residential Subdivision. Flexible Developments require an approved Site Plan in accordance with Section 3900. Applicants may also have the option of proceeding under Section 2300 Alternative Procedure Plan (APP) of Leverett's Rules and Regulations Governing the Subdivision of Land provided they are creating between 3 and 6 lots and can meet all other conditions of Section 2300.

4830. Procedures. Applicants for Flexible Development shall file with the Planning Board seven (7) copies of the following. The required submittals shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

4831. A Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plan shall also indicate proposed topography, wetlands, and, unless the development is to be sewered, the results of deep soil test pits and percolation tests at the rate of one per every two acres, but in no case fewer than two per Flexible Development. Where wetland delineation is in doubt or dispute, the Planning Board may require the applicant to submit a request for determination of wetlands to the Conservation Commission. The Planning Board shall refer data on wastewater disposal to the Board of Health for their review and recommendation.

4832. An Environmental Analysis, if required by the Subdivision Regulations.

4833. Any additional information required by the Planning Board to make the determinations and assessments cited in Sections 4840 and 4850, below.

4840. Modification of Lot Requirements. The Planning Board may authorize modification of lot size, shape, and other bulk requirements for lots within a Flexible Development, subject to the following limitations:

4841. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.

4842. Each lot shall contain not less than 60,000 square feet and 200 feet of frontage for a single family home and 90,000 square feet and 300 feet of frontage for a two-family dwelling, except in the Aquifer Protection District where the Dimensional requirements specified in Section 2340 shall apply. Each lot shall have at least 50% of the required yards in the district in which it is located, and may exceed lot coverage requirements by 50%.

4843. Any proposed open land shall be covered by a recorded restriction enforceable by the Town, providing that such land shall be kept in an open and undeveloped state, or that it shall be preserved for exclusively agricultural purposes. Any such land proposed as Protected Open Land shall be served by suitable access for purposes of passive recreational use, forest management, or agricultural cultivation. The area to be preserved as Protected Open Land shall be made subject to a perpetual restriction of the type described in M.G.L. Chapter 184 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town of Leverett. To ensure this, a Conservation Restriction in accordance with M.G.L. Chapter 184 or a comparable Conservation Restriction acceptable to the Planning Board and Town Counsel that assures permanent protection shall be imposed on the Protected Open Land. Such Conservation Restriction shall be recorded in the Registry o Deeds by the applicant at the time the approved Definitive Plan is submitted to the Registry of Deeds for recording unless an extension is granted in writing by the Planning Board. The Conservation Restriction placed on the Protected Open Land

shall be held by the Conservation Commission of the Town of Leverett, a suitable State Agency, or by a non-profit conservation land trust the principal purpose of which is the conservation or preservation of open space. Any fees associated with the holding and enforcement of the Conservation Restriction by an entity such as a non-profit conservation land trust will be the responsibility of the Applicant or Homeowners Association as agreed to in writing prior to the recording of the Conservation Restriction.

The applicant shall notify the Planning Board in writing within ten (10) days after the Conservation Restriction and the Definitive Plan, as approved and endorsed, have been recorded at the Franklin County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, of such recording, noting book, page number and date of recording. The purpose of the Conservation Restriction will be to clearly identify the uses and restrictions, which apply to the Protected Open Land in order to protect the value of the property within the development.

4844. Such Protected Open Land shall be conveyed to one or more of the following entities:

a. A corporation or trust owned or to be owned by the owners of lots within the development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity;

b. A nonprofit land trust, the principal purpose of which is the conservation or preservation of open space;

c. The Town, at no cost, provided that the Town accepts the land for a park or open space use and such conveyance shall be at the option of the Town and shall require the approval of the voters at a Town Meeting; and

d. A private individual or a trust owned by private individuals provided that the interests of the residents of the Flexible Development will be protected as outlined in the requirements of the Conservation Restriction.

4850. Number of Dwelling Units.

4851. The Basic Maximum number of dwelling units allowed shall be limited to the number of single family dwelling units that could be constructed in a conventional subdivision on the site in full conformance with all zoning, subdivision, and other applicable state and local regulations, and without the proposal of extraordinary engineering measures. Where the Basic Maximum Number is in doubt or dispute, the determination of the Planning Board (and its consulting engineer or landscape architect) shall be conclusive for all purposes.

4852. The Planning Board may approve a Flexible Development containing more than the Basic Maximum number of dwelling units, upon the condition that any increase shall meet the following requirements:

a) If a minimum of 10% of the dwelling units will be affordable and will be made available for a minimum of thirty (30) years via sale, lease, or deed restrictions to persons or families qualifying as low or moderate income as defined by the Executive Office of Communities & Development of the Commonwealth and such unit(s) count towards the 10% requirement of Chapter 40B then the developer may be eligible for bonus lots of up to 20% of the Basic Maximum number. Such bonus lots may provide for either affordable or market rate housing. For example, a ten lot subdivision that includes one (1) lot with an affordable dwelling unit that meets all the requirements of Chapter 40B is eligible for a two (2) lot density bonus provided that those two lots can meet the dimensional requirements of 4842.

b) The total number of additional units to be constructed under sections 4851 and 4852, above, shall not exceed 20% of the Basic Maximum number of dwelling units. Where a fraction of a dwelling unit results in the computation, any fraction larger than 0.5 dwelling unit shall be rounded to the higher figure.

c) No bonus development units shall be allowed in an Aquifer Protection District.

4860. Design of Development.

4861. Departure from the visual scale of single-family development shall be minimized through including not more than 2 dwelling units in a single structure.

4862. Parking areas shall not be located within a required front yard or within ten feet of a lot line. Parking areas shall be screened from public ways by building location, grading, fencing, or plantings. No individual parking area shall contain more than 10 spaces.

4863. No building shall be floodlit. Drives and parking areas shall be illuminated only by shielded lights not higher than 15 feet.

4864. Protected Open Land: For the purposes of Section 4800, Protected Open Land is defined as Protected Open Space and Environmentally Sensitive Areas. Protected Open Space is defined as the land area which is at least 35% of the total parcel area that is set aside as permanently protected open space. To the maximum extent feasible such Protected Open Space shall be unfragmented. The area designated as Protected Open Space will be in addition to any portion of the parcel identified as Environmentally Sensitive Areas, such as wetlands, waterbodies, floodplains, slopes greater than twenty percent (20%), and other land prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by these By-Laws, applicable regulations of the Department of Environmental Protection, applicable

requirements of the Board of Health, and the provisions of the Wetlands Protection Act. A Conservation Restriction pursuant to Section 4843 shall be placed upon the Protected Open Land which must be 50% or greater of the total parcel area unless the Protected Open Land is given to and accepted by the Town under the jurisdiction of the Conservation Commission.

4870. Decision. The Planning Board may approve, approve with conditions, or deny an application for a Flexible Development in accordance with Section 3900 Site Plan Review of the Zoning By-Law.

4880. Residential Subdivision Development.

4881. Purpose. The purpose of this section is to encourage alternate forms of residential development which shall help to protect open space, drinking water supplies and other natural and cultural resources of the town.

4882. Definition. Residential Subdivision Development shall be defined as any subdivision of land for residential purposes into two (2) or more lots. Applicants may also have the option of proceeding under Section 2300 Alternative Procedures Plan (APP) of Leverett's Rules and Regulations Governing the Subdivision of Land Subdivision provided they are creating between 3 and 6 lots and can meet all other conditions of Section 2300. Approval Not Required (ANR) lots do not constitute a Residential Subdivision Development.

4883. Procedures. An Applicant for a Residential Subdivision Development in the RO District that is not applying under Section 2300 Alternative Procedures Plan (APP) of Leverett's Rules and Regulations Governing the Subdivision of Land shall submit both of the following plans:

a. a conventional subdivision plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable federal, state and local requirements. The conventional plan shall be prepared in conformance with the requirements for a preliminary plan as set forth in Leverett's Subdivision Rules and Regulations, provided that in simple cases one or more of the requirements may be waived by the Planning Board. The conventional plan shall determine the number of Dwelling Units allowed under the Flexible Development Plan (see Section 4850); and

b. a Flexible Development Plan in accordance with Section 4800 of these bylaws. Such Flexible Development Plan shall incorporate the following design process. When the Site Plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

1. Understanding the site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.

2. Evaluating site context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

3. Designating the Protected Open Land. The third step is to identify the Protected Open Land to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.

4. Location of development areas. The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.

5. Lot lines. The final step is simply to draw in the lot lines.

4884. Review. The Planning Board may engage a Landscape Architect and/or Professional Engineer, at the expense of the applicant, to review the conventional and alternate plan and make a recommendation to assist with the Planning Board's decision as set forth in Section 4886.

4885. Other Required Submittals. The Planning Board may require an applicant for a Residential Subdivision to submit one or more of the following materials:

a. An economic impact analysis comparing the impact to town services and schools of the conventional and flexible development plan;

b. Narrative and tabular materials describing the plans including the numbers of proposed dwelling units, proposed phasing and other special features of the development; and

c. Other information as may be necessary to make a decision.

4886. The Planning Board shall approve or approve with conditions either the conventional subdivision plan or the Flexible Development plan, whichever best promotes the objectives of the town including:

a. Traffic and pedestrian safety

b. Impact on Municipal Services and Tax Revenues

c. Preservation of open space, natural resources, cultural resources and recreational resources; and

d. Recommendations of Leverett's Community Development Plan, Master Plan, or Open Space and Recreation Plan.

4887. Relation to Subdivision Control Law. Planning Board approval under this section shall not substitute for compliance with the Subdivision Control Act nor oblige the Planning Board to approve a related Definitive Plan for subdivision approval nor reduce any time periods for the Board consideration under that law. However, in order to facilitate processing, the Planning Board my, insofar as practical under law, adopt regulations establishing procedures to allow the applicant and Planning Board to agree on an application which shall satisfy this section and the Board's regulations under the Subdivision Control Act, if applicable. In addition, to the extent permitted by law, the Planning Board shall coordinate the public hearing requirement for the Flexible Development with the Public Hearing required for a Definitive Subdivision Plan.

Section 4900. WIRELESS TELECOMMUNICATION FACILITIES

4910. Purposes. The purposes of this Personal Wireless Service Facilities, Towers and Repeaters Bylaw are to:

A. Preserve the character and appearance of the Town while simultaneously allowing Adequate WT Services to be developed.

B. Protect the scenic, historic, environmental, and natural or man-made resources of the community.

C. Provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of WT Facilities and Repeaters.

D. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify WT Facilities and Repeaters.

E. Preserve property values.

F. Locate Towers so that they do not have negative impacts, such as, but not limited to, visual blight, attractive nuisance, noise (as per Mass DEP noise regulation 310 CMR 7.10) and falling objects, on the general safety, welfare and quality of life of the community.

G. Require owners of WT Facilities, Towers and Repeaters to configure them so as to minimize and mitigate the adverse visual impact of the WT Facilities.

4911. Applicability

Any use of lands within the Town of Leverett for purposes of placement, construction, modification, maintenance or removal of WT Facilities shall be subject to the requirements of this bylaw.

4912. Consistency with Federal Law:

These regulations are intended to be consistent with The Telecommunications Act of 1996 in that: a) they do not prohibit or have the effect of prohibiting the provision of WT Services; b) they are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; c) they do not regulate WT Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated Services and Facilities comply with the FCC's regulations concerning such emissions.

4913. Definitions:

ACT - The Telecommunications Act of 1996.

ADEQUATE COVERAGE - Coverage is considered to be “adequate” within that area surrounding a Base Station where the predicted or measured median field strength of the transmitted signal for at least 75% of the covered area is greater than -95 dbm. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain a strength of greater than -95 dbm.

ADEQUATE CAPACITY - Capacity is considered to be "adequate" if the Grade of Service is p.05 or better for a worst case day in a preceding month, based on the Erlang B Tables, prior to the date of Application; or as measured using direct traffic measurement of the Personal Wireless Service Facility in question for existing Facilities requesting Major Modification, and where the call blocking is due to frequency contention at the antenna(s).

ANTENNA - A device which is attached to a Tower, or other structure for transmitting and receiving electromagnetic waves.

BASE STATION - The primary sending and receiving site in a wireless telecommunications network.

CHANNEL - The segment of the radiation spectrum from an Antenna which carries one signal. An Antenna may radiate on many Channels simultaneously.

CLUSTERING - The location of Towers in as close proximity to one another as technically feasible upon any Facility Site.

COMMUNICATION EQUIPMENT SHELTER - A structure located at a Base Station designed principally to enclose equipment used in connection with Personal Wireless Service transmissions.

DBM - Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

EMF - Electromagnetic Frequency Radiation

FACILITY SITE - The location within owned or leased by one or more WT Providers and upon which one or more WT Facility(s), including fencing and required landscaping are located.

FACILITY/TOWER SPECIAL PERMIT (F/TSP) - The Special Permit required to be obtained in order to install any Tower or WT Facility or for any Major Modification Of An Existing Facility.

FCC - Federal Communications Commission. The Government agency responsible for regulating telecommunications in the United States.

FCC 96-326 - A Report and Order which sets new national standards for emissions of Radio-Frequency emissions from FCC-regulated transmitters. This Report and Order is now contained within Title 47 Regulations, Section 1, §1.1307.

GHZ - Gigahertz: One billion hertz.

GRADE OF SERVICE - A measure of the percentage of calls which are able to connect to the Base Station, during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05 - which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

HERTZ - One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

MAJOR MODIFICATION OF AN EXISTING FACILITY - Any change, or proposed change in power input or output, number of Antennas, change in Antenna type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing Special Permit. Also any increase, or proposed increase in dimensions of an existing and permitted Tower or other structure designed to support WT Service transmission, receiving and/or relaying antennas and/or equipment.

MAJOR MODIFICATION OF AN EXISTING REPEATER - Any removal of or change in location of any Repeater(s) from the Repeater Site(s) for which a Repeater Special Permit has been received.

MHZ - Megahertz: One million hertz.

MONITORING - The measurement, by the use of instruments in the field, of the radiation from a Site as a whole, or from individual WT Facilities, Towers, Antennas or Repeaters.

MONITORING PROTOCOL - The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new WT Facilities and Repeaters upon adoption of this Article. The SPGA may, as the technology changes, require, by written regulation, the use of other testing protocols. A copy of the Monitoring Protocol shall be on file with the Select Board and the Town Clerk.

MONOPOLE - A single self-supporting telescoping vertical pole with below grade foundations.

PERSONAL WIRELESS SERVICES (WT Services) - Commercial Mobile Services, unlicensed wireless services, fixed wireless broadband services and common carrier wireless exchange access services. These services include: cellular services, personal communications services (PCS), Specialized Mobile Radio Services, fixed wireless internet and Paging Services.

PERSONAL WIRELESS SERVICE FACILITY (WT Facility) - All equipment (excluding any Repeaters) with which a WT Provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

PERSONAL WIRELESS SERVICE PROVIDER (WT Provider) - An entity, licensed by the FCC to provide WT Services to individuals or institutions.

RADIATION PROPAGATION STUDIES OR RADIAL PLOTS - Computer generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or structure. The height above mean sea level, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the WT Facility proposed for that Site.

REPEATER - A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

REPEATER SITE - The location within the Town of Leverett leased by one or more WT Providers and upon which one or more Repeater(s) and required camouflage or screening are located.

REPEATER SPECIAL PERMIT (RSP) - The Special Permit required to be obtained in order to install any Repeater, or for Major Modification of an Existing Repeater within the Town of Leverett.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) - The Board of Appeals shall be the SPGA for this Article.

TELEPORT - A multi-user commercial facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmission of data.

TOWER - A lattice structure or framework, or Monopole that is designed to support WT Service transmission, receiving and/or relaying antennas and/or equipment.

4914. Exempted Wireless Telecommunications Uses:

This Article specifically exempts the following wireless telecommunications facilities: police, fire, ambulance and other emergency dispatch; citizens band radio. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, are exempt, provided that (1) the tower is not used or licensed for any commercial purpose; and (2) the tower shall be removed upon loss or termination of said FCC license. No WT Facility or Repeater shall be considered exempt from this Article for any reason whether or not said Facility or Repeater is proposed to share a Tower or other structure with such exempt uses.

4915. Provision of Independent Consultants:

Upon submission of an Application for any Special Permit under this Article, the Applicant shall pay a review fee determined by the SPGA, consisting of reasonable costs to be incurred by the SPGA for the employment of independent consultants. The independent consultant may be hired in accordance with M.G.L. c. 44 § 53G. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields: a) telecommunications engineering, b) structural engineering, c) monitoring of electromagnetic fields, and, if determined necessary by the SPGA, d) other relevant fields of experience as determined by the SPGA. The SPGA shall select Independent Consultant(s).l

4916. Prohibition of Teleports:

There shall be no Teleport(s) within the Town of Leverett.

4917. Wireless Telecommunications Overlay Districts:

The Wireless Telecommunications Overlay District is an overlay district mapped over other districts. It modifies and, where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded the regulations of the underlying districts remain in effect.

.

4918. Application Requirements:

No WT Facility, Tower, or Repeater shall be erected, constructed, or installed or undergo Major Modification without first obtaining a Special Permit from the SPGA in accordance with the requirements set forth herein. One or both of two kinds of Special Permits are required; a) A Facility/Tower Special Permit (henceforth F/TSP) for new Facility/Tower construction (or Major Modification Of An Existing Facility); b) A Repeater Special Permit (henceforth RSP) for Repeater(s) to be mounted on an existing, or newly permitted, Tower or structure (or Major Modification of an Existing Repeater). If Applicant is applying for both Permits, they shall be submitted and examined concurrently.

A)

1) For WT Facilities, excluding Repeaters a F/TSP is required. Applicant must submit all information required in §4918 (B) & (C):

2) For all Repeaters proposed for installation, an RSP is required. An RSP may be applied for by an Applicant who is currently applying for a F/TSP under this Article, or by an Applicant who has previously received a F/TSP under this Article or by an entity which is providing WT Services to the Town of Leverett from a base station outside the Town. Applicant must submit all information required in §4918(D).

B) Adequate Coverage, Adequate Capacity, and Justification of Need for F/TSP:

1) Applicant shall provide written documentation of any Facility Site(s) in Leverett, and

any sites in abutting towns located within eight miles of any boundary of the Town of Leverett, in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such Facility Site, it shall demonstrate with written documentation that this Facility Site is not already providing, or does not have the potential by adjusting the Site, to provide Adequate Coverage and/or Adequate Capacity to the Town of Leverett. The documentation shall include, for each Facility Site listed;

a) the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),
b) ground elevation above mean sea level at the Tower location,
c) height of Tower or structure,
d) type, manufacturer and model number of Antennas,
e) Antenna gain,
f) height of Antennas on Tower or structure,
g) output frequency,
h) number of channels,
i) power input and
j) maximum power output per channel.

Potential adjustments to these existing Facility Sites, including changes in Antenna type, orientation, gain, height or power output shall be specified. Radial Plots from each of these Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the Application.

2) Applicant shall demonstrate with written documentation that they have examined all existing Facility Sites located in Leverett and in any sites in abutting towns located within eight miles of any boundary of the Town of Leverett, in which Applicant has no legal or equitable interest, whether by ownership, leasehold or otherwise. For each such Facility Site, it shall demonstrate with written documentation that this Facility Site is not already providing, or does not have the potential by adjusting the Site, to provide Adequate Coverage and/or Adequate Capacity to the Town of Leverett. The documentation shall include, for each Facility Site listed;

a) the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),
b) ground elevation above mean sea level at the Tower location,
c) height of Tower or structure,
d) type, manufacturer and model number of proposed Antennas,
e) proposed Antenna gain,
f) height of proposed Antennas on Tower or structure,
g) proposed output frequency,
h) proposed number of channels,
i) proposed power input and
j) proposed maximum power output per channel

Radial Plots from each of these existing Facility Sites, configured as documented above, shall be provided as part of the Application.

3) Applicant shall demonstrate with written documentation that they have analyzed the feasibility of Repeaters in conjunction with all existing Facility Sites listed in compliance with § 4918(B)(1) & (2) (above) to provide Adequate Coverage and/or Adequate Capacity to the Town of Leverett. Radial Plots of all Repeaters considered for use in conjunction with these Facility Sites shall be provided as part of the Application.

C) Required Documentation for F/TSP:

The Applicant shall include reports prepared by one or more professional engineers, which shall demonstrate that the WT Facility and Tower comply with all applicable standards of the Federal and State governments. Specifically:

1) Copies of all submittals and showings pertaining to: FCC licensing; Environmental Impact Statements; FAA Notice of Construction or Alteration; Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and power levels regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.

2) Copies of all information submitted in compliance with requirements of Massachusetts Department of Public Health, 105 CMR 122 NONIONIZING RADIATION LIMITS FOR: THE GENERAL PUBLIC FROM NON-OCCUPATIONAL EXPOSURE TO ELECTROMAGNETIC FIELDS, EMPLOYEES FROM OCCUPATIONAL EXPOSURE TO ELECTRO-MAGNETIC FIELDS, AND EXPOSURE TO MICROWAVE OVENS., or any revisions thereof as the Department of Public Health may, by written notice, create.

3) The exact legal name, address or principal place of business and phone number of the Applicant. If any Applicant is not a natural person, it shall also give the state under which it was created or organized.

4) The name, title, address and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the Applicant.

5) Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed WT Facility and/or Tower shall be located, or of the owner(s) of the Tower or structure on which the proposed WT Service Facility shall be located.

6) Required Plans and engineering plans, prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts. (Note: survey plans shall also be stamped and signed by a Professional Land Surveyor registered in Massachusetts.) Plans shall be on 24" x 36" sheets, on as many sheets as necessary, and at scales which

are no smaller (i.e. no less precise) than listed below in § 4918 (C)(7)(a-d). Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal and signature of the P.E. and other professionals who prepared the plan.

7) Applicant shall, as part of its application, provide the SPGA with the following plans and maps:

a) Proposed Site Plans: Proposed Facility Site layout, grading and utilities at a scale no smaller than 1" = 40' showing the entire vicinity within a 400' radius of the Tower site with topography drawn with a minimum of 2' contour interval.

(i) Proposed Tower location and any appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries of the Facility Site and setback distances to the base(s) of the Tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements.

(ii) Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.

(iii) Plans of proposed access driveway or roadway and parking area at the Facility Site. Include grading, drainage, travel-led width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.

b) Proposed Tower and Appurtenances:

(i) Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.

(ii) Two cross sections through proposed Tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing. Indicate proposed spot elevations at the base of the proposed Tower. Dimension the proposed height of tower above average grade at Tower Base. Indicate the maximum allowable structural height of the Tower after addition of any modular sections. Show all proposed antennas, including their location on the Tower.

(iii) Details of typical Tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.

(iv) Detail proposed exterior finish and camouflage of the Tower.

(v) Indicate relative height of the Tower to the tops of surrounding trees as they presently exist.

c) Proposed Communications Equipment Shelter:

(i) Floor Plans, elevations and cross sections at a scale of no smaller than 1/4" = 1' (1:48) of any proposed appurtenant structure.

(ii) Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.

d) Proposed Equipment Plan:

(i) Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.

(ii) Number of Antennas and Repeaters (if any), as well as the exact locations of all Repeaters (if any) located on a map as well as by Degrees, minutes and seconds of Latitude and Longitude.

(iii) Mounting locations on Tower or structure, including height above ground.

(iv) Antenna type(s), manufacturer(s), model number(s).

(v) For each Antenna, the Antenna gain and Antenna radiation pattern.

(vi) Number of channels per Antenna, projected and maximum.

(vii) Power input to the Antenna(s).

(viii) Power output, in normal use and at maximum output for each Antenna and all Antennas as an aggregate.

(ix) Output frequency of the Transmitter(s).

e) Balloon Test

Within 35 days of submitting an Application, Applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height and at the location of the proposed Tower. The dates, (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised, by the Applicant, 14 and 7 days in advance of the first scheduled test date in a newspaper with a general circulation in the Town of Leverett. The Applicant shall inform the SPGA and the Planning Board, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours on two days within a 7 day period, one of which days shall be a Saturday, sometime between 9:00 am and 5:00 pm of the dates chosen.

D) Required Documentation for RSP:

The use of Repeaters to assure Adequate Coverage, or to fill holes within areas of otherwise Adequate Coverage, while minimizing the number of required Towers is permitted and encouraged. An Applicant who has received, and is in compliance with a current F/TSP under this Article, or an entity which is providing WT Services to the Town of Leverett from a base station outside the Town, may apply for a RSP. Applicants shall provide the following information:

1)

a) the exact location (in Longitude and Latitude, to degrees, minutes, seconds), as well as by street address or Pole number (if applicable)
b) ground elevation,
c) type, manufacturer and model number of proposed Repeater,
d) height of proposed Repeater above ground,
e) proposed output frequency,
f) proposed number of channels,
g) proposed power input and
h) proposed maximum power output per channel, and
i) Radial Plots from any proposed Repeater(s), configured as documented above, shall be provided as part of the Application.

2) Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Repeater shall be located, and of the owner(s) of the Tower or structure on which the proposed Repeater shall be located.

3) Proposed Repeater Site layout, grading and utilities at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) showing the entire vicinity within a 300' radius of the Repeater site with topography drawn with a minimum of 2' (0.6 meter) contour interval.

a) Proposed Repeater location and any appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries of abutters within 300’ of the Repeater, and dimensions of all proposed improvements.

b) Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.

c) Plans of any proposed access driveway or roadway and parking area at the Repeater site. Include grading, drainage, and travelled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.

4919. General Requirements for F/TSP(s):

A. A Special Permit shall not be granted for a Tower to be built on speculation. If Applicant is not simultaneously installing a WT Facility on the Tower, it shall provide a copy of its existing lease/contract with a WT Provider. Said Provider shall provide all necessary data to comply with the terms of this Article, as a part of Applicant's application for a F/TSP or the Special Permit shall not be granted.

B. Wherever feasible, a WT Facility shall be located on existing Towers with the objective of minimizing the proliferation of new towers.

C. Tower(s) shall minimize, to the extent feasible, adverse visual impacts on the environment. The SPGA may impose reasonable conditions to ensure this result, including, but not limited to, requiring the use of camouflage, painting, lighting standards and screening.

D. A vegetated buffer strip of undisturbed trees of at least 100' in depth (or less if determined by the SPGA to be sufficient), shall be retained as close to the Tower as possible, but in all cases there shall be no clearing at a distance in excess of 25 feet in radius from the base of the Tower except where the access drive is located.

E. Access shall be provided to the Tower or Facility or Repeater Site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by the SPGA and the Chiefs of all emergency services in the Town to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and on steep slopes.

F. Fencing: The area around the Tower and Communication Equipment Shelter(s) shall be completely fenced for security within an area no greater than 25 feet in radius from the base of the tower, and to a height of six feet, and gated. Use of razor wire is not permitted.

G. Signs: All signs shall conform to the sign requirements of this bylaw, § 3300. There shall be no signs, except the following. A sign indicating the name of the WT Facility's owner(s) and a 24 hour emergency telephone number shall be posted adjacent to the entry gate. In addition, No Trespassing or other warning signs may be posted on the fence.

H. Communication Equipment Shelters and Accessory Buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.

I. New Towers shall be the lesser of (a) 199 feet or (b) the minimum height determined by the independent consultant(s) to provide the applicant Adequate Coverage from the WT Facility(s) proposed for use on the Tower.

J. The minimum distance from the base of the Tower, to be measured from the vertical center line of the monopole, to any property line or road right-of-way shall be at least one and one-half (1.5) times the height of the Tower to ensure an adequate fall zone.

K. The Tower shall be located a minimum distance of 1,650' from public buildings, playgrounds, athletic fields and any dwelling or habitable structures. Towers shall be located a minimum distance of 2,000' from any street.

L. Tower Design: All Tower(s) shall be a monopole or lattice design and shall be designed to minimize the adverse visual impact unless otherwise required by the SPGA.

M. Tower(s) must be placed to minimize visual impacts. Applicants shall place Towers on the side slope of terrain, so that, as much as possible, the top of the Tower does not protrude over the ridge line, as seen from public ways.

N. To the extent feasible, all network interconnections to and from the telecommunications site and all power to the site shall be installed underground. At the initial construction of the access road to the site, sufficient conduit shall be laid to accommodate the maximum possible number of WT Providers licensed to provide services to the Town of Leverett and surrounding areas.

O. There shall be a minimum of one parking space per WT Facility for use in connection with the maintenance of the site and shall not be used for the storage of vehicles and equipment.

P. If primary coverage (greater than 50%) from proposed Personal Wireless Service Facility is outside Leverett, then the permit may be denied unless the Applicant demonstrates to the satisfaction of the SPGA that the Applicant is unable to locate within the Town which is primarily receiving service from the proposed Facility.

Q. Unless required by law, no night lighting of Towers, or the WT Facility, is permitted, except for manually operated emergency lights for use only when operating personnel are on site.

R. No Tower or WT Service Facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation regulations (Title 14 CFR) is permitted.

S. Emergency back up power shall be required for any WT Facility.

T. If feasible, WT Facilities shall be located on Town owned land or on existing structures, including but not limited to building, water towers, telecommunication tower, utilities poles and towers.

4920. Siting Criteria for Towers & WT Facilities

No Tower or WT Facility with the exception of Repeaters not located on Towers shall be located within any of the following prohibited areas. All distances are to be measured from the base of the Tower or the WT Facility.

1. Massachusetts or federally regulated wetland or Massachusetts Certified Vernal Pool;

2. Within 50' horizontally from any Massachusetts regulated wetland;

3. Within 100' horizontally of the mean high water of any river or perennial stream;

4. Within 1,650' horizontally from any public buildings, playgrounds, athletic fields, or dwelling or habitable structures; and

5. Within 2,000' horizontally from any known street.

4921. General Requirements for RSP(s):

A. No Repeater shall be located closer than 100' to an existing Dwelling Unit, nor less than 25' above ground.

B. The SPGA may require the use of screening, painting or camouflage to reduce the visual impacts of Repeaters.

C. Repeaters shall be located so as to have the least possible impact on the views of the residents of the Town of Leverett.

4922. Evaluation by Independent Consultants.

A. Upon submission of a complete Application for any Special Permit(s) under this Article, the SPGA shall provide its Independent Consultant(s) with the full Application(s) for their analysis and review.

B. Applicants for any Special Permit(s) under this Article shall grant permission for the Town's Independent Consultant(s), to conduct any necessary site visit(s).

4923. Approval Criteria:

A. In acting on the Special Permit Application, the SPGA shall proceed in accordance with the procedures and timelines established for Special Permits as mandated by M.G.L. c.40A §9.

B. In addition to the findings required by the Bylaw in Section 5300, the SPGA shall, in consultation with the Independent Consultant(s), make all of the applicable findings before granting the Special Permit, as follows:

1) That Applicant is not able to use Existing Towers/Facility Sites in or around the Town of Leverett, either with or without the use of Repeaters, to provide Adequate Coverage and/or Adequate Capacity to the Town of Leverett; and

2) That proposed WT Facility, Tower or Repeater will not have an undue adverse impact on historic resources, scenic views, residential property values, natural or man-made resources; and

3) That the Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Towers and WT Facilities; and

4) That the proposal shall comply with FCC 96-326 and any and all other applicable FCC regulations, regarding emissions of electromagnetic radiation and that the required Monitoring program is in place and shall be paid for by the Applicant.

4924. Monitoring and Evaluation of Compliance:

A. Initial Monitoring: It shall be a condition of any Special Permit granted under this bylaw that, in order to determine the WT Facility's or Repeater's radio frequency emissions and their compliance with FCC regulations, the Applicant shall, after the granting of a Special Permit and within 30 days of the date that Applicant's WT Facility(s) or Repeater(s) begin(s) transmission, pay for an Independent Consultant, hired by the Town, to Monitor the levels of EMF radiation, around the proposed WT Facility and/or Repeater Site(s). The Independent Consultant shall use the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Select Board, the Planning Board, the Board of Health, the Building Inspector and the Town Clerk.

B. Ongoing Monitoring: It shall be a condition of any Special Permit granted under this bylaw that, in order to determine ongoing compliance with FCC regulations, after transmission begins, the owner(s) of any WT Facility(s) or Repeater(s) located on any Facility or Repeater Site shall pay for an Independent Consultant, hired by the Town, to conduct testing and Monitoring of EMF radiation emitted from said Site, and to report results of said Monitoring, as follows:

1) There shall be random Monitoring of emissions, no more than twice yearly, by the Independent Consultant using actual field measurement of radiation, utilizing the Monitoring Protocol. This Monitoring shall measure levels of EMF radiation from the WT Facility Site's primary Antennas as well as from Repeater Site(s) (if any). A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Select Board, the Board of Health, the Building Inspector and the Town Clerk.

2) Any Major Modification of Existing Facility, or the activation of any additional permitted channels, shall be cause for new Monitoring in accordance with §4924(A) & (B)(1) above.

C. Excessive Emissions: Should the Monitoring of a Facility or Repeater Site reveal that the Site exceeds the FCC 96-326 standard, or any other applicable FCC standard, then the owner(s) of all WT Facilities utilizing that Site shall be so notified. The owner(s)shall submit to the SPGA and the Building Inspector a plan for the reduction of emissions to a level that complies with the FCC 96-326 standard and any and all other applicable FCC regulations within 10 business days of notification of non-compliance. That plan shall reduce emissions to the applicable FCC standard within 15 days of initial notification of non-compliance. Failure to accomplish this reduction of emission within 15 business days of initial notification of non-compliance shall be a violation of the Special Permit and subject to penalties and fines, of $300.00 per violation, as specified in M.G.L. c.40.§§21.D. Every day of ongoing non-compliance shall be considered a new violation. Such fines shall be payable by the owner(s) of the WT Facilities with Antennas on the Facility Site, until compliance is achieved.

D. Structural Inspection: It shall be a condition of the Special Permit that, Tower owner(s) shall pay for an Independent Consultant (a licensed professional structural engineer), hired by the Town, to conduct inspections of the Tower's structural integrity and safety. Towers shall be inspected every five years. A report of the inspection results shall be prepared by the Independent Consultant and submitted to the SPGA, Select Board, the Board of Health, the Building Inspector, and the Town Clerk. Any Major Modification of Existing Facility which includes changes to Tower dimensions or antenna numbers or type shall require new structural inspection.

E. Unsafe Structure: Should the inspection of any Tower reveal any structural defect(s) which, in the opinion of the Independent Consultant render(s) that Tower unsafe, the following actions must be taken. Within 10 business days of notification of unsafe structure, the owner(s) of the Tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within 10 days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to accomplish this remediation of structural defect(s) within 10 business days of initial notification shall be a violation of the Special Permit and subject to penalties and fines, of $300.00 per violation, as specified in M.G.L. c.40.§§21.D. Every day of ongoing non-compliance shall be considered a new violation. Such fines shall be payable by the owner(s) of the Tower, until compliance is achieved.

4925. Removal Requirements:

Any Personal Wireless Service Facility or Repeater which ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the WT Facility or Repeater and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the Facility or Repeater Site shall be remediated such that all WT Facility or Repeater improvements which have ceased to operate are removed. If all Facilities on a Tower have ceased to operate, the Tower shall also be removed, and the Facility or Repeater Site, including any access road(s) which lead to that Facility or Repeater Site from the main access road, shall be revegetated. If all Facility or Repeater Sites have ceased to operate, the owner of the last WT Facility or Repeater to leave

the site shall revegetate the access road in its entirety. Existing trees shall only be removed with the written permission of the SPGA, and only if the SPGA determines such removal of trees to be necessary to complete the required removal of WT Facility(s) or Repeater(s).

4926. Performance Guarantees:

A. Applicant shall, as a condition of the Special Permit:

1) Post an initial bond in a reasonable amount determined and approved by the SPGA. This bond shall be in force to cover the costs of the remediation of any damage to the landscape which occurs during the clearing of the Site; and to cover the cost of the removal of the Tower or Facility or Repeater from the Site, and remediation of the landscape, should the Facility or Repeater cease to operate.

2) Post a maintenance bond for the access road(s), site(s) and tower(s) in amounts approved by the SPGA.

4927. Fees and Insurance:

A. WT Facilities and Repeaters shall be insured by the owner(s) against damage to persons or property. The owner(s) shall provide a Certificate of Insurance to the Select Board's Office on an annual basis in which the Town of Leverett shall be an additional named insured, in an amount specified by the SPGA. The insurer must notify the Select Board, by certified mail, of any impending cancellation or of any change whatsoever in policy coverages.

B. A schedule of fees for WT Facility, Tower and Repeater permitting and renewal, any Monitoring of emissions and inspection of structures, and any other fees shall be established by the SPGA pursuant to M.G.L. c. 40A, §9. This schedule may be amended from time to time.

4928. Permit Expiration and Renewal:

In accordance with M.G.L. c.40A §9, any Special Permit granted under this section shall lapse if the Applicant fails to begin construction on the Facility or Tower or Repeater within a two year period of said grant.

4929. Severability Clause:

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision hereof.

4960. Upper Elevation Site Plan Review.

4961. Purpose. It is the intent of this Section 4960 to minimize visual intrusion of development on Leverett's remote hillsides, as may be visible from public ways in town. Upper Elevation Site Plan Review is therefore intended to allow

development at higher elevations but subject to reasonable conditions as set forth herein.

4962. Applicability. Applications for building permits or special permits within the Upper Elevation Site Plan Review Overlay Districts as identified on the Upper Elevation Site Plan Review Overlay District map dated January 27, 2009 (excluding applications for extension, alteration, or change to nonconforming structures or uses, or applications for agricultural structures), for new principal structures, including conversion of existing principal structures, shall be accompanied by four (4) copies of a site plan in accordance with the criteria specified below, unless the application constitutes:

4962.1. Construction that will be minimally visible, because of location or other site attributes, from public ways. The burden of proof shall be upon the owner of the land in question to demonstrate to the Planning Board that reasonable conditions set forth by the Planning Board in Site Plan Review would not further minimize such visibility.

4962.2. Where applicable, the requirements of Section 3900 remain in full force and effect, in addition to these requirements under Section 4960. The Planning Board shall consolidate site plan review in such cases.

4963. Procedure. Site plans accompanying applications for building permits or site plans accompanying applications for special permits shall be processed in accordance with the specifications of Section 3910, above.

4964. Plans. Plans subject to this section shall show:

4964.1. Existing and proposed topography at 10 foot or 3 meter contour intervals;

4964.2. All boundary line information pertaining to the land sufficient to permit location of same on ground, including the location of the frontage for the lot;

4964.3. Location and height of the proposed structure(s); photographs or renderings of the elevation of the proposed structure(s) and any alterations;

4964.4. Parking, access, and egress provisions;

4964.5. Location of existing stonewalls, large trees, and wooded areas, and proposed removal or retention of same;

4964.6. Compliance with all applicable provisions of this Zoning By-Law.

Site plans shall be submitted on 24-inch by 36-inch sheets. Dimensions and scales shall be adequate to determine that all requirements are met and to make a

complete analysis and evaluation of the proposal. All plans shall have a scale of 1"=40' unless the Planning Board requests a scale of 1"=20' if needed to determine that all requirements are met.

4965. Decision. Site plan approval shall be granted upon determination by the Planning Board that the development complies, to the maximum extent feasible, with the following criteria and standards. The Planning Board may impose reasonable conditions, even at the expense of the applicant, to ensure that the criteria and standards have been satisfied. Except where the applicant has removed, or caused to be removed, mature trees from the site, whether pursuant to 304 CMR 11.00 or not, the Planning Board shall not require the planting of mature trees as a condition of site plan approval. New building construction or other site alteration shall be designed in the site plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

4965.1. Minimize the number of removed trees 6" caliper or larger and minimize the length of removed stone walls;

4965.2. Minimize disruption of scenic views from publicly accessible locations;

4965.3. Minimize visual intrusion by controlling the visibility of the principal and accessory structures, parking, storage, or other outdoor service areas as viewed from public ways;

4965.4. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways.

4965.5. Locate principal structures, to the maximum extent feasible, downgrade from the ridgeline so that building silhouettes do not visibly intersect the ridgeline or exceed the elevation of the ridgeline as viewed from any public way.

4965.6. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these site plan guidelines.

4970. GROUND-MOUNTED SOLAR ELECTRIC

1. Purpose

The purpose of this bylaw is to facilitate the creation of new medium scale and large-scale ground-mounted solar electric installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of medium-scale and large-scale ground-mounted solar electric installations, as defined in Section 2. Definitions.

Applicability

Roof-mounted systems are allowed as of right.

Small-scale (less than 1,750 square feet of panels) ground or building-mounted solar electric installations which are an accessory structure to an existing residential or non-residential use do not need to comply with this section but require a building permit and must comply with the other provisions of Leverett's zoning bylaws shall be subject to Site Plan Review if in excess of 20 feet in height up to 35.

This section applies to medium-scale and large-scale ground-mounted solar electric installations proposed to be constructed in Leverett. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. Such facilities are subject to Site Plan Review and Design and Performance Standards (see Section 3900 Site Plan Review and Section 4970.9). Medium-scale ground mounted solar electric installations also require a Special Permit in the RV district and in the following overlay districts: (i) the Stream and Lake Protection District, (ii) Rattlesnake Gutter Overlay District and (iii) Upper Elevation Site Plan Review Overlay District. Large-scale ground-mounted solar electric installations also require a Special Permit and are not permitted in the RV district and in the following overlay districts: (i) the Stream and Lake Protection District, (ii) Rattlesnake Gutter Overlay District and (iii) Upper Elevation Site Plan Review Overlay District.

2. Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As of-right development shall be subject to Site Plan Review under Section 3900. Projects cannot be prohibited, but can be reasonably regulated by the Planning Board under Site Plan Review.

Small-Scale Ground Mounted Solar Electric Installations: A solar electric system that is structurally mounted on the ground and is not-roof mounted, and does not exceed 1,750 square feet of panels.

Medium-Scale Ground-Mounted Solar Electric Installation: A solar electric system that is structurally mounted on the ground and is not roof-mounted, and exceeds 1,750 square feet of panels and does not exceed 40,000 square feet of panels.

Large-Scale Ground-Mounted Solar Electric Installation: A solar electric system that is structurally mounted on the ground and is not roof-mounted, and exceeds 40,000 square

feet of panels and does not exceed 200,000 square feet of panels.

On-Site Solar Electric Installation: A solar electric installation that is constructed at a location where other uses of the underlying property occur.

Site Plan Review: Review by the Planning Board to determine conformance with local zoning ordinances or bylaws.

Site Plan Review Authority: For purposes of this bylaw, the Planning Board is the Site Plan Review Authority.

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

Zoning Enforcement Authority: The Building Inspector is charged with enforcing the zoning ordinances or bylaws.

3. General Requirements for all Medium and Large Scale Solar Power Generation Installations

The following requirements are common to all solar electric installations to be sited in designated locations.

a. Compliance with Laws, Ordinances and Regulations
The construction and operation of all medium and large-scale solar electric installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the State Building Code.

b. Building Permit and Building Inspection
No medium or large-scale solar electric installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

c. Fees
The application for a building permit for a medium or large-scale solar electric installation must be accompanied by the fee required for a building permit.

4. Site Plan Review

Medium and large-scale ground-mounted Solar Electric Installations shall undergo Site Plan Review (see Section 3900) by the Planning Board prior to construction, installation or modification as provided in this section.

a. General
All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

b. Required Documents

The project proponent shall provide the following documents in addition to or in coordination with those required for Site Plan Review:

(1) A site plan showing:

i. Property lines and physical features, including roads and topography, for the project site;

ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;

iii. Locations of wetlands, Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP)
Locations of Floodplains or inundation areas for moderate or high hazard dams;
Locations of Priority Heritage landscapes and local or National Historic Districts;

vi. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate;

vii. Blueprints or drawings of the solar electric installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

viii. One or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;

ix. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.;

x. Name, address, and contact information for proposed system installer;

xi. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;

xii. The name, contact information and signature of any agents representing the project proponent; and

(2) Documentation of actual or prospective access and control of the project site;

(3) An operation and maintenance plan (see also 4970.6);

(4) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);

(5) Proof of liability insurance; and

(6) Description of financial surety that satisfies Section 4970.12.c.

5. Site Control
The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar electric installation.

6. Operation & Maintenance Plan
The project proponent shall submit a plan for the operation and maintenance of the medium or large-scale ground-mounted solar electric installation, which shall include measures for maintaining safe access to the installation, storm water and vegetation controls, as well as general procedures for operational maintenance of the installation.

7. Utility Notification
No medium or large-scale, ground-mounted solar electric installation shall be constructed until evidence has been given to the Board of Appeals that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar electric installation owner or operator's intent to install an interconnected customer-owned generator and evidence satisfactory to the Board of Appeals that such utility has agreed to the connection. Off-grid systems shall be exempt from this requirement.

8. Dimension and Density Requirements

a. Setbacks
For medium or large-scale ground-mounted solar electric installations, front, side and rear setbacks shall be as follows:
(i) Front yard: The front yard depth shall not be less than 100 feet.
(ii) Side yard: Each side yard depth shall not be less than 100 feet.
(iii) Rear yard: The rear yard depth shall not be less than 100 feet.
Setbacks may be reduced to not lower than that of the underlying zoning district upon a Special Permit.

b. Appurtenant Structures
All appurtenant structures to medium or large-scale ground-mounted solar electric installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, and setbacks as specified in Section 4970.8.a., open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

9. Design and Performance Standards

a. Lighting
Lighting of solar electric installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the solar electric installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage
Signs on large-scale ground-mounted solar electric installations shall comply with Leverett's sign bylaw. A sign consistent with a Section 3300 shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar electric installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar electric installation.

c. Utility Connections
Reasonable efforts, as determined by the Board of Appeals, shall be made to place all utility connections from the solar electric installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

d. Roads
Access roads shall be constructed to minimize grading, removal of stonewalls or street trees and minimize impacts to environmental or historic resources.

e. Control of Vegetation
Herbicides may not be used to control vegetation at the solar electric installation. Mowing or the use of pervious pavers or geotextile materials underneath the solar array are possible alternatives.

f. Hazardous Materials
Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to MassDEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar electric equipment then impervious

containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

g. Noise
Sound or noise levels may not exceed 50 dBA, at the boundary of the property.

h. Height of Structures
The height of any solar panel or associated support structure associated with a medium or large-scale ground-mounted solar electric installation shall not exceed 9 feet, but such height may be increased to not greater than 35 feet by Special Permit.

10. Safety and Environmental Standards

a. Emergency Services
The medium or large-scale solar electric installation owner or operator shall provide a copy of the project summary, electrical schematic and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar electric installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

b. Land Clearing, Soil Erosion and Habitat Impacts
Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the medium or large-scale ground-mounted solar electric installation or otherwise prescribed by applicable laws, regulations, and bylaws.

11. Monitoring, Maintenance and Reporting

a. Solar Electric Installation Conditions
The medium or large-scale ground-mounted solar electric installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the solar electric installation and any access road(s).

b. Modifications
All material modifications to a medium or large-scale solar electric installation made after issuance of the required building permit shall require approval by the Board of Appeals.

c. Annual Reporting

The owner or operator of the installation shall submit an Annual Report which certifies compliance with the requirements of this bylaw and their approved site plan including control of vegetation, noise standards, and adequacy of road access. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The report shall be submitted to the Select Board, Board of Appeals, Fire Chief: Emergency Management Director, Building Inspector, Board of Health and Conservation Commission (if Wetlands Permit was issued) no later than 45 days after the end of the calendar year.

12. Abandonment or Decommissioning

a. Removal Requirements

Any medium or large-scale ground-mounted solar electric installation, which has reached the end of its useful life or has been abandoned consistent with Section 4970.12.b. of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Board of Appeals by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(i) Physical removal of all medium or large-scale ground-mounted solar electric installations, structures, equipment, security barriers and transmission lines from the site.
(ii) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(iii) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

b. Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar electric installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Board of Appeals. If the owner or operator of the medium or large-scale ground mounted solar electric installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation at the cost and expense of the land owner.

c. Financial Surety

(i) Proponents of medium or large-scale ground-mounted solar electric projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Board of Appeals, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

(ii) A proponent of a medium-scale ground-mounted solar electric system who owns a house on either the land of the proposed system or land that is adjacent to the proposed system, may request that the Board of Appeals, as part of the Special Permit, permit the proponent to place a recordable lien, satisfactory to the Board of Appeals, on the proponent's house and project land, which lien shall not permit the separation of the house land from the project land without, prior to such separation, financial security satisfactory to the Board of Appeals in accordance with Section 4970.12 (i).

13. The Board of Appeals shall be the Special Permit granting authority under this Section 4970.

14. Minimum lot area and frontage is not required for a small, medium or large-scale ground mounted solar electric installation, which otherwise meets the conditions of this Section 4970.

ARTICLE V. ADMINISTRATION.

5100. Administration.

5110. Permits. This By-Law shall be administered by the Building Inspector. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use without certification by the Building Inspector that such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification.

5120. Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued thereunder, including notification of non-compliance and request for legal action through the Selectmen to Town Counsel.

5130. Penalties. The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be One Hundred dollars ($100.00) for each offense. Each day that each violation continues shall constitute a separate offense.

5200. Board of Appeals.

5210. Establishment. There is hereby established a Board of Appeals which shall consist of five members and three associate members, who shall be appointed and act in all matters under this By-Law in the manner prescribed in M.G.L.A. ch. 40A.

5220. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

5221. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 5300, unless otherwise specified.

5222. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures. Such variance shall be granted, pursuant to M.G.L.A. ch. 40A, s. 10, as may be amended, only in cases where the Board of Appeals finds all of the following:

a. A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner or applicant.

b. The hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

c. Desirable relief may be granted without either:

(l) substantial detriment to the public good; or
(2) nullifying or substantially derogating from the intent or purpose of this By-Law.

d. The Board of Appeals shall not grant use variances in any residential district of the Town.

5223. To Hear and Decide Other Appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:

a. any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. ch. 40A; or by

b. the Regional Planning Agency; or by

c. any person including any officer or Board of the Town of Leverett, or of any abutting town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of M.G.L.A. ch. 40A, or this By-Law.

5224. To Issue Comprehensive Permits. Comprehensive Permits for construction may be issued by the Board of Appeals for construction of low or moderate income housing by a public agency or limited dividend or non-profit corporation, upon the Board's determination that such construction would be consistent with local needs, whether or not consistent with local zoning, building, health, or subdivision requirements, as authorized under M.G.L.A. ch. 40B.

5225. To Issue Withheld Building Permits. Building Permits withheld by the Building Inspector acting under M.G.L.A. ch. 41, s. 81Y, as a means of enforcing the subdivision control law, may be issued by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.

5226. To hear and decide appeals under the Commonwealth of Massachusetts State Building Code, as provided under Section 126 of that Code.

5230. Public Hearings. The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws, with regard to all appeals and petitions brought before it.

5300. Special Permits.

5310. Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

5320. Public Hearings. Special permits shall only be issued following public hearings held within sixty-five (65) days after filing an application with the Special Permit Granting Authority, a copy of which shall forthwith be given to the Town Clerk by the applicant.

5330. Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the proposed use will not have adverse effects on either the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

5331. Social, economic, or community needs which are served by the proposal;

5332. Traffic flow and safety;

5333. Adequacy of utilities and other public services;

5334. Neighborhood character and social structures;

5335. Impacts on the natural environment;

5336. Potential fiscal impact.

5340. Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-Law.

5350. Expiration. Special permits shall lapse 24 months following special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L.A. ch. 40A, s. 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

5400. Amendments. This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in M.G.L.A. ch. 40A, s.5, and any amendments thereto.

5500. Applicability.

5510. Other Laws. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.

5520. Conformance. Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within a period of six months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

5600. Separability. The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

ARTICLE VI. DEFINITIONS.

In this By-Law, the following terms shall have the following meaning, unless other meaning is required by the context or is specifically prescribed.

Accessory Building, Structure, or Use shall mean a building or structure not attached to any principal building or structure, or a use customarily incidental to and located on the same lot with the principal building, structure, or use.

Accessory Dwelling Unit (ADU) shall mean a self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the Building and Fire Code for safe egress. ADUs may be detached, attached, or internal to the Principal Dwelling. General references to ADUs in this by-law include both Protected Use ADUs and Local ADUs.

Aquifer shall mean a geologic formation composed of sand and gravel that contains significant amounts of potentially recoverable groundwater.

Aquifer Recharge Area shall mean an area on the surface of the ground where infiltration from precipitation or groundwater flow directly recharge aquifers. The boundary of the aquifer recharge area shall be the contact point of the stratified drift deposit and surrounding till or bedrock materials.

Bed and Breakfast shall mean non-family accommodation for short periods (not to exceed two weeks) with breakfast provided and included with the fee and with the owner residing on the premises.

Building shall mean a structure adapted to permanent or continuous occupancy for assembly, business, professional, education, industrial, institutional, residential, or storage purposes, and the term "building" shall be construed as if followed by the words "or portion thereof".

Building Height shall mean the vertical distance from the mean finish grade of the ground adjoining the building at the street side to the highest point of the ridge.

Building Line shall mean a line indicating the approximate centerline of the proposed principal building, as it shall be actually laid out, extended in a straight line to the length of at least the required frontage in the district.

Building, Principal shall mean the building in which is conducted the principal use of the lot on which said building is located.

Campground shall mean premises used for travel trailers, campers, tenting, or for any temporary overnight facilities of any kind where a fee is charged.

Commercial Outdoor Recreation Area shall mean a drive-in theater, golf course/driving range, bathing beach, sports club, horseback riding stables, boathouse, game preserve, marina, or other

commercial recreation carried on in whole or in part outdoors except those activities more specifically designated elsewhere in this by-law.

Dwelling shall mean any building containing one or more dwelling units.

Dwelling Single-Family shall mean a dwelling containing not more than one (1) dwelling unit, except where an accessory apartment has been authorized.

Dwelling, Two-Family shall mean a single building containing two (2) dwelling units, neither of which is an accessory apartment.

Dwelling, Multi-Family shall mean a single building containing three (3) or more dwelling units.

Dwelling Unit shall mean a building or part of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities.

Farm Stand shall mean a structure of semi-permanent or temporary type located in a district in which agricultural uses are allowed, from which raw products are offered for sale to the public.

Frontage shall mean the boundary of a lot coinciding with the street line, being an unbroken distance along a way currently maintained by the town, county, or state, or along ways shown on the Definitive Plans of approved subdivisions, through which actual access to the potential building site shall be required (except where a "common driveway" has been allowed per Section 3520, herein), and the street has been determined by the Planning Board to provide adequate access for fire, police, and emergency vehicles. Lot frontage shall be measured continuously along one street line between side lot lines, or, in the case of corner lots, between one side lot line and the mid-point of the corner radius. Lots with interrupted or discontinuous frontage must demonstrate that the required length along the street may be obtained from one (1) continuous frontage section, without any totaling of discontinuous frontage sections.

Grade shall mean the rate of change in elevation on the surface of the land, as measured in feet of vertical change per one hundred (100) feet horizontal, or percent. (One foot vertical change per one hundred feet horizontal is equal to a one percent (1%) grade.)

Gross Floor Area (GFA) shall mean the sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches, and similar spaces.

Groundwater shall mean all waters found beneath the surface of the ground.

Hazardous Waste shall mean any waste material hazardous to human health or the environment as designated by the United States EPA under 40 CFR Part 261 and the regulations of the Massachusetts Dept. of Environmental Protection pursuant to G.L. c. 21C, both as may be amended.

Hotel or Motel shall mean a building or group of buildings providing accommodations on a transient basis for compensation, not meeting the definition of "Non-family Accommodations". Accommodations having individual kitchen facilities (sink, range, and refrigerator) shall be considered dwelling units.

Impervious Surface shall mean the impermeable or non-porous surface of roads, buildings, or other structures on or above the ground that do not allow precipitation to be absorbed into the underlying soil.

Inn shall mean an historic structure used or designed for overnight lodging for transient guests, which may also provide a restaurant to lodgers and the public. An historic structure for the purposes of this definition shall be a building one hundred (100) years or more in age. A guest(s) may not stay at an Inn for more than 30 days in any six-month period.

Junkyard shall mean the use of any area of any lot, whether inside or outside a structure, for the storage, salvage, keeping or abandonment of junk, scrap, or discarded materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

Kennel shall be defined as a land use resulting from the keeping of three (3) or more dogs of three (3) months of age or older on a single premises, for commercial purposes.

Leachable Waste shall mean waste materials, including but not limited to solid waste, septic and other sludge, and pesticide, herbicide, and fertilizer residues and wastes, capable of releasing water-borne or soluble contaminants into the environment by leaching.

Loading Facility shall mean an off-street space, berth, or dock on the same lot as the building it serves, for the temporary parking of vehicles while loading and unloading merchandise and material, and which has access to a street, alley or other appropriate means of ingress and egress.

Local ADU shall mean an ADU that is not a Protected Use ADU and may include rules specific to Leverett.

Lot shall mean a single area of land in one ownership defined by metes and bounds or boundary lines in a recorded deed or on a recorded plan.

Lot, Corner shall mean a lot at the junction of and fronting on two (2) or more intersecting streets.

Lot Line shall mean a line which separates one or more lots or a lot and a street.

Lot Line, Front shall mean the lines separating a lot from the right-of-way of a street.

Lot, Rear any lot meeting the requirements of Section 2330.

Microbrewery shall mean a small brewery that produces up to 100,000 gallons (approx. 2,400 barrels) of beer a year.

[need definitions for mobile home and manufactured home since mobile home is still in doc and now manufactured home is in doc]

Nonconforming Uses or Structures shall mean any structure or use of land lawfully existing at the effective date of this by-law or subsequent amendment which does not conform to one or provisions of the by-law.

Non-family Accommodations shall include boarding houses, lodging houses, guest houses, tourist homes, or similar accommodations not having cooking facilities and not shared as a single housekeeping unit. Accommodations having individual kitchen facilities (sink, range, and refrigerator) shall be considered dwelling units. This shall not include the renting of a single room as an accessory use, as set forth in Section 2246.

Office shall mean a place for the transaction of a professional service or business, not including the sale of articles at retail.

Open Space shall mean ground space other than that occupied by structures, walkways, drives, parking or other surfaces. Required yard setbacks may be included as open space if in conformance with the above specifications.

Overlay District shall mean a zoning district superimposed over an underlying district, superceding, where applicable, the less stringent requirements of the underlying district.

Principal Building, Use, or Structure shall mean any building or structure containing any principal use as indicated in Section 2230, except where such use is a home occupation. Where more than one principal use is conducted on a lot and such uses are in more than one building or structure, each building or structure shall be considered a principal building or structure.

Protected Use ADU shall mean an attached, detached or internal ADU that is located, or is proposed to be located, on a Lot in a Zoning District that allows single-family dwelling units as a Principal Use, built as of-right in accordance with Section 3 of the Zoning Act (M.G.L. c. 40A), as amended by Section 8 of Chapter 150 of the Acts of 2024, and the regulations under 760 CMR 71.00: Protected Use Accessory Dwelling Units. An ADU that is nonconforming to zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

Sawmill shall mean a mill or machine for sawing logs, but shall not include the operation of a sawmill not housed in a permanent structure and used solely for the sawing of logs originating on the premises.

Scenic Road shall mean any road designated by the town as such pursuant to G.L. c. 40, s. 15C.

Setback shall mean the minimum horizontal distance between the street or front lot line and the building nearest the street or front lot line, such distance measured at a right angle to the street or front lot line.

Short-Term Rental shall mean an owner-occupied, tenant-occupied, or non-owner-occupied property as defined in M.G.L. c. 64G § 1, including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant for a period of ~~90~~ **31** consecutive days or less; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Sign shall mean any device displaying, or any display of, any letter, word, picture, symbol, or object designed to inform or attract the attention of persons not on the premises on which such device or display is located, including billboards and any other internally or decoratively illuminated building surface other than unobstructed window glass.

Sign Area shall mean the surface area within a single continuous perimeter enclosing all of the display area, but not including structural members not bearing advertising matter unless internally or decoratively lighted. One side only of flat, back to back signs shall be counted.

Storage Unit shall mean a container or structure, or portion thereof, such as a cargo container, truck trailer or similar unit, used to store goods, wares or personal property for residential, commercial or industrial purposes. No flammable or explosive materials use or storage is permitted in a Storage Unit.

Street shall mean either (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the Town, having in the opinion of the Planning Board sufficient width, suitable grades, and adequate construction in relation to the proposed use of land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Structure shall mean anything constructed or erected, the use of which occupies a fixed location on the ground, including swimming pools, satellite dishes, tennis courts, animal enclosures, and Storage Units.

Toxic or Hazardous Material shall mean any substance or mixture of such chemical, physical, or infectious characteristics that it could pose a significant actual or potential hazard to water supplies, or other hazard to human health if it were discharge onto the land, or into the air or waters of the town. Toxic or hazardous materials include but are not limited to: organic chemicals, petroleum products, heavy metals, radioactive infectious wastes, acids and alkalies, and include such products as pesticides, herbicides, solvents and thinners.

Transit Station shall mean a Subway Station, Commuter Rail Station, Ferry Terminal, or Bus Station.

Watershed shall mean the area of land surrounding a water body that naturally or artificially drains into the water body or aquifer.

Wireless Telecommunication Facilities (WT Facilities) shall include towers, antennas, buildings and accessory structures designed or modified to provide personal communications services, radio and television broadcast or reception, microwave communications, or similar communication services. Not included are antennas used for personal television and radio reception or radio facilities actively used under a FCC (Federal Communication Commission) amateur radio license.

Yard shall mean an open space on a lot unoccupied and unobstructed by any building or structure, except the following: fences, walls, poles, posts, paving, and other customary yard accessories, ornaments, and furniture; or, in front yards only, eaves, steps, and non-covered porches.

Yard, Front shall mean a yard extending between lot side lines across the lot adjacent to the front lot line.

Yard, Rear shall mean a yard extending between lot side lines adjacent to the rear of the lot.

Yard, Side shall mean a yard extending along each side line of a lot between front and rear yards.